

**立法會**  
**Legislative Council**

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by the Administration)

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**Panel on Financial Affairs**

**Minutes of meeting**  
**held on Monday, 11 April 2016 at 10:45 am**  
**in Conference Room 2 of the Legislative Council Complex**

- Members present :** Hon NG Leung-sing, SBS, JP (Chairman)  
Hon Christopher CHEUNG Wah-fung, SBS, JP (Deputy  
Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Vincent FANG Kang, SBS, JP  
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 CHAN Kin-por, BBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon LEUNG Kwok-hung  
Hon James TIEN Pei-chun, GBS, JP  
Hon Charles Peter MOK, JP  
Hon Kenneth LEUNG  
Hon Dennis KWOK  
Hon SIN Chung-kai, SBS, JP
- Members attending :** Hon WONG Kwok-hing, BBS, MH  
Hon WU Chi-wai, MH  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon TANG Ka-piu, JP  
Hon Alvin YEUNG Ngok-kiu

**Public officers attending** : Agenda Item III

Mr Andrew WONG, JP  
Permanent Secretary for Financial Services and the Treasury (Financial Services)

Mr Paul WONG  
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) 6

Mr Charles NG  
Acting Director-General of Investment Promotion

Mr Herman LAM  
Chief Executive Officer  
Hong Kong Cyberport Management Company Limited

Agenda Item IV

Mr Patrick HO Chung-kei, JP  
Deputy Secretary for Financial Services and the Treasury (Financial Services)

Mr Paul WONG  
Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) 6

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

**Staff in attendance** : Mr Hugo CHIU  
Senior Council Secretary (1)4

Ms Sharon CHAN  
Legislative Assistant (1)4

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## **I Information paper issued since the meeting on 22 March 2016**

(LC Paper No. CB(1)717/15-16(01) — Administration's paper on "Articles of Agreement Establishing the Asian Infrastructure Investment Bank")

Members noted the information paper issued since the regular meeting held on 22 March 2016.

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

(LC Paper No. CB(1)736/15-16(01) — List of outstanding items for discussion)

2. Members agreed to discuss the following items proposed by the Administration at the next regular meeting rescheduled for 23 May 2016:

- (a) Briefing on the work of Hong Kong Monetary Authority ("HKMA"); and
- (b) Annual briefing on the work of the Financial Reporting Council.

3. Mr LEE Cheuk-yan expressed concern about difficulties encountered by some members of the public and companies in opening bank accounts. At his suggestion, members agreed that HKMA be invited to discuss the following issues at the briefing on 23 May 2016:

- (a) the existing guidelines issued by HKMA to banks on the opening of bank accounts;
- (b) the impacts of the Foreign Account Tax Compliance Act of the United States ("US") on local banks, including the stringent requirements arising from the Act resulting in complicated and prolonged procedures in opening bank accounts and compliance burden on banks;
- (c) difficulties encountered by the receivers of small-scale bankruptcies (e.g. with estimated asset value below \$200,000) in opening bank accounts; and
- (d) measures to address the problems identified in (b) and (c) above.

### III Strategies and measures to develop financial technologies

(LC Paper No. CB(1)736/15-16(02) — Administration's paper on "Strategies and Measures to Develop Financial Technologies"

LC Paper No. CB(1)613/15-16(01) — Report of the Steering Group on Financial Technologies)

#### Briefing by the Administration

4. At the invitation of the Chairman, Permanent Secretary for Financial Services and the Treasury (Financial Services) ("PS(FS)") briefed members on the Government's strategies and measures to support the development of financial technologies ("Fintech") in Hong Kong.

#### Discussion

##### *Development and regulation of Fintech in Hong Kong*

5. Mr CHAN Kam-lam expressed support for the recommendations of the Steering Group on Fintech in its report released in February 2016 ("Report of the Steering Group") in developing Fintech in Hong Kong. He pointed out that Fintech development in Hong Kong had lagged behind that of other jurisdictions including the Mainland, and called on the Administration to review whether this was due to inadequacies in the regulatory regimes and regulators in coping with the rapid development in Fintech. Mr CHAN further urged the Administration to take the lead in adopting Fintech in various government operations and processes, such as expanding e-payment for government fees and introducing e-payment for tolls of cross harbour tunnels.

6. Mr Charles MOK pointed out that Fintech had a broad scope and covered innovative information and communication technologies in financial services areas such as peer-to-peer ("P2P") lending, equity crowdfunding and Blockchain, of which not all financial institutions might fully grasp. He relayed the industry's views about the need for the Administration to formulate strategies and measures for the development of Fintech, put in place a clear legislative framework for Fintech, and refrain from over-regulation. Moreover, the industry had expressed concern about the Administration's conservative approach of upholding the principle of "technology-neutral" in

developing Fintech. Mr MOK further suggested that the Administration should make reference to the report on Fintech development by the Government of the United Kingdom released in February 2016 ("the UK Report"). In his views, some of the issues set out in the UK Report, including the role of the Government in setting clear and measurable objectives for the development of Fintech and nurturing talents, had not been adequately addressed in the Report of the Steering Group. He added that he would provide a written submission to the Administration on his responses to the Report of the Steering Group after the meeting.

*(Post-meeting note: Mr Charles MOK's written submission to the Administration was circulated to members vide LC Paper No. CB(1)795/15-16(01) on 13 April 2016.)*

7. PS(FS) said that compared with Mainland users, consumers in Hong Kong were more cautious when accepting new Fintech services or products. The Steering Group, nevertheless, considered that Hong Kong was an ideal place for developing Fintech. The Government's strategy was to foster an ecology conducive for Fintech development. For instance, the Clearing and Settlement Systems (Amendment) Bill 2015 passed by the Legislative Council in November 2015 had established the relevant regulatory framework for stored value facilities and important retail payment systems, and this would encourage the provision of novel services and strengthen consumers' confidence in using new technologies. PS(FS) added that HKMA, the Securities and Futures Commission and the Office of the Commissioner of Insurance had established dedicated platforms to enhance communication with the Fintech community. Regulators would also actively explore the use of technologies to complement their existing regulatory processes such as deploying technologies to monitor compliance with, for example, the "know your client" requirements, by regulatees.

8. As regards the regulatory framework for Fintech, PS(FS) said that drawing from discussions with stakeholders, the Government noted many services provided by Fintech companies could operate under the existing legal framework. For new financial products or services developed by Fintech companies, if general consumers or retail investors were the targets, the Government had to ensure that the relevant regulatory regime would provide adequate protection to them and the regime would be commensurate with the risks of the Fintech applications concerned. PS(FS) added that the Government recognized the importance of nurturing talents in supporting Fintech development. The Government would collaborate with Cyberport to launch relevant training programmes targeting talents at different stages, including university students. PS(FS) thanked members' views and said that the Administration would study Mr Charles MOK's written submission.

9. Mr CHAN Kin-por welcomed the recommendations in the Report of the Steering Group and concurred that the Administration should step up its efforts in developing Fintech in Hong Kong in order to seize the huge opportunities. He pointed out that the development of Fintech would inevitably phase out existing jobs in the financial services sector. He urged the Administration to assist the employees concerned in adapting to and preparing themselves for the changes to be brought by Fintech development in Hong Kong.

10. The Chairman stressed the need for the Administration to liaise with stakeholders, including the financial services sector and the banking industry in promoting Fintech and assisting them to cope with the challenges ahead. He also considered that the Administration should help the public to grasp new banking services utilizing Fintech.

11. PS(FS) responded that the Government would collaborate with the industry and stakeholders in stepping up training for existing practitioners to enhance their interest in using Fintech and skill-sets to take advantage of the opportunities provided by applying information technology in the financial services industry. As regards liaison with the banking sector, PS(FS) advised that the Government would encourage existing financial institutions to develop innovative financial products and services as well as enhance its efficiency through applying Fintech. Acting Director-General of Investment Promotion ("Atg DGIP") supplemented that the banking sector had already organized a number of programmes to promote the use of Fintech. For instance, the DBS Bank had launched an accelerator programme to facilitate cooperation with new Fintech companies and startups. An innovation lab under the Commonwealth Bank of Australia was established in Hong Kong in January 2016. Recently, another accelerator programme called SuperCharger, which was sponsored jointly by the Standard Chartered Bank, Tsinghua University Science Park and Baidu, had completed its inaugural round of programme.

12. Mr SIN Chung-kai agreed that the Administration should strike a proper balance between promoting the development of Fintech and protecting the interests of consumers and investors. He enquired about the Administration's directions in reviewing various regulatory regimes in supporting the development of Fintech. With a view to fostering an environment conducive for Fintech development in Hong Kong, Mr SIN opined that the Administration should set up a working group to review and harmonize the relevant laws, subsidiary legislation, regulations and rules, as well as guidelines issued by regulators relating to Fintech on a regular basis.

13. Mr WU Chi-wai stressed the importance for the Administration to ensure proper protection of personal data privacy in promoting Fintech

development, and enquired whether the Administration would consider introducing consumer protection measures such as contract cooling-off period to enhance public confidence in using Fintech.

14. Mr Kenneth LEUNG relayed the industry's concern about regulatory gaps in certain Fintech applications including P2P lending and equity crowdfunding. He called on the Administration to review the existing regulatory framework to bridge the gaps. As the development of Fintech and biometrics were closely related, for instance some Fintech applications could use fingerprints and voices as means of authentication, Mr LEUNG asked whether the Administration would explore related issues.

15. PS(FS) said that the Government attached importance to safeguarding data security in Fintech applications, and protection of personal data privacy of consumers and investors, which were vital in maintaining public confidence in using Fintech. There was currently no universal model of regulatory regime for Fintech, and different jurisdictions had adopted different approaches for individual Fintech services depending on their business nature and models. The Government would formulate an appropriate approach having regard to the prevailing circumstances of Hong Kong. For instance, the new regulatory framework for stored value facilities would put in place requirements on segregation of client funds and capital requirements on operators to protect users' rights. He advised that while the Government would uphold the principle of "technology-neutral", it maintained an open mind as whether existing rules should be amended or new rules introduced to support financial innovation when necessary. The regulators had also established dedicated platforms to liaise with their respective Fintech community on the matter.

16. As regards P2P lending and equity crowdfunding platforms, PS(FS) advised that given the diversity in their business models and risk management challenges, practitioners might consider providing such products or services first to professional investors leveraging the exemptions under the existing regulatory framework. He added that the Government was aware of the developments related to Fintech and biometrics.

#### *Promotion of Fintech development in Hong Kong*

17. Mr CHAN Kin-por sought details of Cyberport's work in promoting the development of Fintech in Hong Kong, and feedback to its Fintech-related job fairs.

18. Chief Executive Officer, Hong Kong Cyberport Management Company Limited responded that Cyberport had established a vibrant cluster of Fintech startups and companies. It was aware of the demand for Fintech from customers

and enterprises, and would step up its efforts in promoting Fintech development and nurturing relevant talents. For instance, some 50 local university students had participated in a summer bootcamp in the Silicon Valley in 2015 under the Cyberport University Partnership Programme, and some of the student teams further developed their Fintech business ideas with the support from the Cyberport Creative Micro Fund. He added that about 50% of the Fintech companies in Cyberport were engaged in providing solutions for banks, portfolio management companies and brokerages, while around another 20% in emerging technologies like Blockchain. He also advised that there had been positive feedback on Fintech activities organized by Cyberport.

19. In respect of funding support for Fintech companies in Hong Kong, Mr Kenneth LEUNG enquired whether the Administration would consider developing a platform to help Fintech companies to seek funding from private equity funds, and consider tax concessions for private equity funds to encourage their investments in Fintech companies. Mr Charles MOK asked whether the Administration would look into the difficulties encountered by some Fintech companies in opening bank accounts in Hong Kong.

20. On the opening of bank accounts, PS(FS) said that the Government noted that some Fintech startups might have encountered some initial difficulties in opening bank accounts in Hong Kong. It was however noted that these startups had eventually resolved the problem. He added that upon the establishment of the dedicated team under InvestHK, existing support to Fintech companies would be enhanced. As regards tax concession, PS(FS) responded that given the simple and low taxation system of Hong Kong, the Government had to examine carefully whether to provide tax incentives. He observed that local Fintech startups with promising projects could be successful in seeking relevant funding, and a number of the Government's new initiatives announced in the 2016-17 Budget would help provide more opportunities for startups to connect with investors. Atg DGIP added that the dedicated team to be established under InvestHK would provide one-stop services and organize pitching events to help local Fintech startups to seek funding. InvestHK would also liaise with relevant investor groups, Fintech stakeholders and work with Cyberport in this regard.

#### **IV Regulatory arrangements to tackle malpractices by financial intermediaries for money lending**

(LC Paper No. CB(1)736/15-16(03) — Administration's paper on "Regulatory arrangements to tackle malpractices by financial intermediaries for money lending"

LC Paper No. CB(1)736/15-16(04) — Background brief on regulatory arrangements to tackle malpractices by financial intermediaries for money lending prepared by the Legislative Council Secretariat

LC Paper No. CB(1)762/15-16(01) — Submission from the 5D Lend Company Limited on the regulation of malpractices by financial intermediaries for money lending (Chinese version only))

#### **Briefing by the Administration**

21. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services) 3 ("DS(FS)3") briefed members on the proposed measures to tackle malpractices by financial intermediaries for money lending ("intermediaries"). He said that the problem of unscrupulous intermediaries should not be considered in isolation from the regulation of money lenders as the cases handled by the Police revealed that many unscrupulous intermediaries had sought to conceal their relationship with money lenders in order to make it more difficult for the Police to gather sufficient evidence within a reasonable time frame to charge them for breaching the statutory ban on the charging of fees on borrowers. He highlighted that to address the crux of the matter, the Government would adopt a four-pronged approach which would enhance protection for the public against unscrupulous intermediaries, namely (a) enhancing Police enforcement; (b) enhancing public education and publicity, such as by distributing/displaying pamphlets and posters, broadcasting an Announcement of Public Interest on TV and radios, and developing public education programmes which would involve collaboration with the Investor Education Centre and Consumer Council;

(c) strengthening support for financial advisory services provided by non-governmental organizations ("NGOs"); and (d) introducing more stringent regulatory measures by imposing additional licensing conditions and disclosure requirements on money lenders.

*(At 12:00 noon, the Chairman suggested that the meeting be extended for 15 minutes up to 1:00 pm. Members did not raise objection.)*

## Discussion

### *Current regulation of money lenders and their intermediaries and proposed additional licensing conditions*

22. Mr Andrew LEUNG and Mr Christopher CHEUNG considered that the Administration should tighten regulation over unscrupulous money lenders and associated intermediaries, including increasing sanctions to deter their illegal acts.

23. Miss Alice MAK opined that the Administration should review the licensing regime of money lenders as she considered that conditions imposed on licensees were lenient and sanctions for contravention of the Money Lenders Ordinance (Cap. 163) ("MLO") had little deterrent effect. She urged the Administration to enhance the licensing requirements on money lenders, including imposing a minimum capital requirement, launch more public education activities, and increase resources allocated to NGOs for providing debt management advisory services.

24. Mr Dennis KWOK and Mr WU Chi-wai expressed concern that money lenders might circumvent the new regulatory requirements by claiming that they had no knowledge about the improper acts of their appointed intermediaries or persuading prospective borrowers to state in the loan agreements that no intermediary was involved. Mr KWOK opined that the Administration should put in place more stringent measures, including imposing statutory liability on money lenders if their appointed intermediaries had breached the requirements of MLO.

25. Mr James TIEN were concerned that overly stringent regulatory measures might put the viability of the money lending industry at risk and adversely affect those people in financial distress in obtaining loans.

26. DS(FS)3 said that MLO prohibited the money lender or its agents or employees or any persons acting for the money lender from demanding any fee from a borrower other than the interest charged on the loan. According to

market information, many money lenders handled loan applications direct without engaging any intermediaries. With the benefit of the experience of the Police in investigating cases involving malpractices of intermediaries, the Government considered that it was of utmost importance to tackle the situation whereby unscrupulous intermediaries concealed their relationship with money lenders in order to circumvent the aforementioned statutory prohibition on separate fee charging. In parallel to enhancing the relevant regulatory measures on money lenders, the Government would also enhance public education to remind members of the public to stay vigilant of the fraudulent acts of intermediaries.

27. As regards the proposal to impose additional licensing conditions on money lenders, DS(FS)3 pointed out that the proposal aimed to ensure effective enforcement of the statutory prohibition on separate fee charging on borrowers. Under the proposal, a money lender would be allowed to grant a loan to a borrower involving an intermediary only if the latter was appointed by the money lender. In addition, before entering into a loan agreement with a prospective borrower, the money lender would be required to confirm with the prospective borrower whether the latter had entered into any agreement with an intermediary. The proposed additional licensing conditions would prevent money lenders from using the excuse of lack of knowledge to conceal their relationship with intermediaries and facilitate enforcement actions against separate fee charging by intermediaries. Under the proposed arrangements, even if a borrower did not disclose the involvement of an intermediary in the loan application, the money lender and his appointed intermediary would still be subject to the statutory prohibition on separate fee charging once the appointee status of the intermediary had been established. The Government would also, through public education, remind prospective borrowers not to engage any intermediary which was not an appointee of any money lender. DS(FS)3 noted some members' views that the new regulatory measures should not be overly stringent, and stressed the need to strike a balance between enhancing regulation and ensuring business viability of law-abiding money lenders and intermediaries, which would enable people in financial distress who could not obtain loans from banks to approach money lenders to meet their financial needs.

*Prohibition of activities of intermediaries associated with money lenders*

28. Miss Alice MAK, Mr WONG Kwok-hing and Mr TANG Ka-piu suggested that the Administration should regulate intermediary activities through introducing a licensing system for the intermediaries and standardizing their names so that the public would be better aware of their identities. They also urged the Administration to consult the public on the relevant proposals. Mr Christopher CHEUNG concurred that the Administration should consider

introducing a licensing system for intermediaries. Mr Kenneth LEUNG agreed that the names of intermediaries should be standardized. He pointed out that some unscrupulous intermediaries had used the description "accounting affairs firms" (會計事務所) in their names to mislead the public that they were professional accountants.

29. As money lenders could accept applications for loans from the public direct, Mr LEE Cheuk-yan, Mr Kenneth LEUNG, Mr SIN Chung-kai and the Chairman enquired if the Administration would consider banning the operation of intermediaries.

30. DS(FS)3 emphasized that the Government's focus was to enable effective enforcement of the statutory ban on separate fee charging and enhance public education to raise public awareness of malpractices of intermediaries. He believed that the proposed measures could tackle the most important problems caused by unscrupulous intermediaries. DS(FS)3 said that members' proposal of introducing a licensing system for intermediaries would give rise to many complicated issues, such as the need for general consensus of clear definitions of intermediaries and intermediary activities, the permissible scope and level for the charging of intermediary fees, etc., which would require careful consideration and consultation with the stakeholders and the wider public. He pointed out that currently some money lenders appointed their intermediaries properly and their practices complied with the requirements of MLO, and there was no compelling reason or justification for the Government to ban this commercial practice of the industry.

#### *Enforcement actions*

31. Mr LEE Cheuk-yan sought details on the enforcement actions against money lenders and intermediaries which colluded to circumvent the ban on separate fee charging.

32. DS(FS)3 said that there had been successful prosecutions against money lenders under MLO, but unscrupulous money lenders and intermediaries would try to conceal their relationship using different means, thus making the collection of evidence by the Police more difficult and time-consuming.

#### *Review of the Money Lenders Ordinance*

33. Mr SIN Chung-kai pointed out that the measures proposed by the Administration were only stop-gap measures. He considered that some of the provisions in MLO were outdated and ineffective in regulating the activities of money lenders and their intermediaries, and called on the Administration to conduct a comprehensive review of the Ordinance expeditiously.

34. Noting that the current cap of 60% per annum on the effective interest rate for a loan had been incorporated in MLO since the 1980s, Mr James TIEN opined that the Administration should review the cap to adjust it downward so as to disincentivize loan-sharking. Mr WU Chi-wai asked if the Administration would consider capturing all fees charged by a money lender and its intermediary in the same loan under the 60% interest rate cap in order to address the problem of intermediaries charging separate fees on loans.

35. DS(FS)3 explained that under the proposed additional licensing conditions, intermediaries would be required to be formally appointed by money lenders, and their identities would be stated in loan agreements. Therefore, any fee charged by the intermediaries would have to be reflected in the interest charged by the money lenders, rather than for the intermediaries to separately charge the borrowers. He added that adjusting the cap on effective interest rate might not be an effective means to address the issue of separate fee charging by money lenders and intermediaries. The Government hence sought to address the problem through the proposed measures.

36. Mr WONG Kwok-hing suggested amending MLO to tighten regulation over debt collection activities. He pointed out that the Police at times were unable to follow up complaints from borrowers who were harassed by money lenders if the cases concerned did not involve criminal acts. Mr LEUNG Kwok-hung suggested introducing contract override provisions in MLO, such that any term of an agreement between a borrower and a money lender or its intermediary which limited the power of MLO would be deemed unenforceable.

37. On tightening regulation over debt collection activities, DS(FS)3 said that the Police had followed up cases involving improper debt collection practices of money lenders. In some cases, the Police had issued warning letters to or instituted prosecutions against the money lenders concerned.

#### *Advertisements on money lending*

38. Some members expressed concern that many advertisements of money lenders and intermediaries contained misleading information, and called on the Administration to tighten the regulation of advertisements on money lending. Mr Andrew LEUNG opined that the law enforcement agencies should examine advertisements concerned to see if they had breached the requirements of the Trade Descriptions Ordinance (Cap. 362). Mr LEE Cheuk-yan said that the Administration should impose a requirement on advertisements concerned to include warnings about the risks associated with imprudent borrowing. Mr Dennis KWOK suggested that advertisements of money lenders should be

required to contain messages about the ban on separate fee charging. Mr TANG Ka-piu was of the view that advertisements on money lending should be required to carry "health warning" messages and money lenders should not be allowed to place advertisements through certain channels. The Chairman agreed that "health warning" with catchy words and phrases in money lending advertisements would be effective in promoting prudent lending and alerting people about the problem of over-borrowing.

39. DS(FS)3 considered that the proposed health warning, namely "You have to repay, don't over-borrow", would be appropriate for alerting the public about the problem of over-borrowing. He took note of members' views on the proposed health warning and said that the Government would evaluate the effectiveness of the proposed measures including the health warning after their implementation.

*Disclosure requirements and protection of privacy*

40. Mr Kenneth LEUNG sought elaboration on how the proposed disclosure requirements on money lenders could better protect borrowers. Mr WONG Kwok-hing enquired about details of the proposed measure to enhance protection of personal data privacy of prospective borrowers. Mr LEUNG Kwok-hung cast doubt on the effectiveness of the proposed measure to protect data privacy of prospective borrowers because it was difficult to trace the sources of the leakage of personal data.

41. DS(FS)3 explained that after the proposed additional licensing conditions had been implemented, all money lenders would be required to explain all terms of repayment to their prospective borrowers including the interest rate and the amount of interest payments. This would ensure that the borrowers were aware of their repayment obligations before taking on a loan. He added that MLO had provided for the calculation of the interest rate of a loan and presentation of such information in the loan agreement. Therefore, he did not envisage that it would be difficult for a money lender to implement this proposed licensing condition. DS(FS)3 added that some money lenders or intermediaries were able to approach victims and induce them to borrow money as they had obtained the personal data of the victims through illegal means. To better protect personal data privacy, money lenders who intended to use personal data provided by a third party for their business purposes would be required to obtain written confirmation from the third party that it had obtained the personal data in accordance with the relevant legislation. Money lenders must also not use such personal data if they had reasonable suspicion that the data had been obtained through improper means.

42. Miss Alice MAK suggested that the Government should mandate audio-recording of the loan negotiation process with reference to the similar procedure applicable to the sales of insurance products. Mr TANG Ka-piu and Mr WU Chi-wai further proposed introducing a cooling-off period for loan agreements and standardizing the documents of loan agreements.

43. DS(FS)3 responded that currently, mandatory requirements of cooling-off period and audio-recording of the sales process applied to certain financial products only. Members' proposal of introducing the same to loan agreements would require careful consideration. The Government would discuss the issue with the industry.

44. In response to Mr TANG Ka-piu's question on provision of customer loans by deposit-taking companies under the regulation of HKMA, DS(FS)3 said that all money lenders regulated by MLO would need to comply with the proposed additional licensing conditions, and HKMA could impose requirements on its regulatees as appropriate.

#### *Peer-to-peer lending*

45. Mr Charles MOK relayed the concern of P2P lending companies about whether their business would be subject to the regulatory regime of money lenders and the proposed additional licensing conditions. Moreover, he expressed concern about the capability of the Police in regulating activities of the money lenders which increasingly involved the use of Fintech.

46. DS(FS)3 said that companies involved in P2P lending might have different business models. If the company concerned acted as a third party, it would be regarded as an intermediary and subject to the proposed additional licensing conditions. In other words, the company concerned would need to be formally appointed by the money lender concerned for engaging in intermediary service for the latter. As regards the capability of the Police in enforcing MLO and the licensing conditions for money lenders, DS(FS)3 remarked that the Police were responsible for combating commercial crimes and were knowledgeable in financial affairs. Under the established mechanism, the Licensing Court and Registrar of Money Lenders were also involved in vetting the applications.

#### Conclusion

47. Concluding the discussion, the Chairman urged that the Administration should consider regulating the activities of intermediary involved in money lending in the long run, improving the standards of the money lending industry,

conducting a review of MLO, and strengthening public education to prevent over-borrowing.

**V      Any other business**

48.      There being no other business, the meeting ended at 1:01 pm.

Council Business Division 1  
Legislative Council Secretariat  
27 May 2016