OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 24 January 2018

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT
THE HONOURABLE ANDREW LEUNG KWAN-YUEN, G.B.S., J.P.

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE ABRAHAM SHEK LAI-HIM, G.B.S., J.P.

PROF THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P.

THE HONOURABLE JEFFREY LAM KIN-FUNG, G.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, G.B.S., J.P.

THE HONOURABLE STARRY LEE WAI-KING, S.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN, B.B.S., J.P.

THE HONOURABLE CHAN KIN-POR, G.B.S., J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, S.B.S., J.P.

THE HONOURABLE WONG KWOK-KIN, S.B.S., J.P.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.
THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN, B.B.S.

THE HONOURABLE FRANKIE YICK CHI-MING, S.B.S., J.P.

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING, B.B.S.

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE LEUNG CHE-CHEUNG, S.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, B.B.S., J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG, J.P.

THE HONOURABLE DENNIS KWOK WING-HANG

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, S.B.S., J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN
DR THE HONOURABLE ELIZABETH QUAT, B.B.S., J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, S.B.S., J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, S.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE ALVIN YEUNG

THE HONOURABLE ANDREW WAN SIU-KIN

THE HONOURABLE CHU HOI-DICK

DR THE HONOURABLE JUNIUS HO KWAN-YIU, J.P.

THE HONOURABLE HO KAI-MING

THE HONOURABLE LAM CHEUK-TING

THE HONOURABLE HOLDEN CHOW HO-DING

THE HONOURABLE SHIU KA-FAI

THE HONOURABLE SHIU KA-CHUN

THE HONOURABLE WILSON OR CHONG-SHING, M.H.

THE HONOURABLE YUNG HOI-YAN

DR THE HONOURABLE PIERRE CHAN

THE HONOURABLE CHAN CHUN-YING

THE HONOURABLE TANYA CHAN
THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE HUI CHI-FUNG

THE HONOURABLE LUK CHUNG-HUNG

THE HONOURABLE LAU KWOK-FAN, M.H.

THE HONOURABLE KENNETH LAU IP-KEUNG, B.B.S., M.H., J.P.

DR THE HONOURABLE CHENG CHUNG-TAI

THE HONOURABLE KWONG CHUN-YU

THE HONOURABLE JEREMY TAM MAN-HO

MEMBERS ABSENT:

THE HONOURABLE TOMMY CHEUNG YU-YAN, G.B.S., J.P.

THE HONOURABLE CHAN HAN-PAN, J.P.

THE HONOURABLE JIMMY NG WING-KA, J.P.

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.M., G.B.S., J.P.
CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE MS TERESA CHENG YEUK-WAH, G.B.S., S.C., J.P.
SECRETARY FOR JUSTICE

MR JACK CHAN JICK-CHI, J.P.
UNDER SECRETARY FOR HOME AFFAIRS, AND
SECRETARY FOR HOME AFFAIRS
MR JOSEPH CHAN HO-LIM, J.P.
UNDER SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY,
AND SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

DR THE HONOURABLE LAW CHI-KWONG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

THE HONOURABLE JOSHUA LAW CHI-KONG, G.B.S., J.P.
SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE FRANK CHAN FAN, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE MICHAEL WONG WAI-LUN, J.P.
SECRETARY FOR DEVELOPMENT

THE HONOURABLE PATRICK NIP TAK-KUEN, J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

CLERKS IN ATTENDANCE:

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MS DORA WAI, ASSISTANT SECRETARY GENERAL
PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members to the Chamber.

(After the summoning bell had been rung, a number of Members entered the Chamber)

TABLING OF PAPERS

The following papers were laid on the table under Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments

| Accreditation of Academic and Vocational Qualifications Ordinance (Amendment of Schedules 2 and 3) Order 2018 | 3/2018 |
| Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules) Order 2018 | 4/2018 |
| Legal Aid in Criminal Cases (Amendment) Rules 2017 (Commencement) Notice | 5/2018 |

Other Papers

No. 66 — Hong Kong Council for Accreditation of Academic and Vocational Qualifications Annual Report 2016/17


No. 68 — The Government Minute in response to the Annual Report of The Ombudsman 2017
ADDRESS

PRESIDENT (in Cantonese): Address. The Chief Secretary for Administration will address the Council on "The Government Minute in response to the Annual Report of The Ombudsman 2017".

The Government Minute in response to the Annual Report of The Ombudsman 2017

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, laid on the table today is the Government Minute responding to the recommendations contained in the Annual Report of The Ombudsman 2017 ("the Annual Report").

This is the first Government Minute of the current-term Government in response to the Annual Report of The Ombudsman. Just as in the previous terms of Government, we will continue to support the work of the Office of The Ombudsman ("the Office") in full strength and strive to take forward The Ombudsman's recommendations for sustained enhancement of public administration.

The Ombudsman summarized 11 direct investigation and 218 full investigation cases, and made a total of 254 recommendations in the Annual Report. The Government Minute responds to the 11 direct investigation and 95 full investigation cases in which recommendations were made by The Ombudsman. The vast majority of the recommendations made by The
Ombudsman were accepted by the government departments and public bodies concerned, and they have taken or are taking various measures to implement those recommendations. As for individual recommendations that were not accepted, the relevant departments have given an account to The Ombudsman, and explained their difficulties and responses in detail in the Government Minute.

President, the Office handled nearly 5,000 complaints in 2016-2017. No matter the Office followed up the cases by means of inquiry, full investigation or mediation, government departments and public bodies handled every investigation of the Office in a cooperative and earnest manner. The above process fully demonstrates the positive interaction between the Office and government departments in improving public administration.

Having reviewing the contents of the Annual Report, I note that the number of direct investigations initiated by the Office in 2016-2017 is a record high in recent years. Through initiating direct investigations, The Ombudsman examined policies of extensive public concern from a more macroscopic perspective, thereby fully realizing the Office's role as a watchdog of public administration. For example, in a direct investigation concerning the manpower at public swimming pools and beaches, The Ombudsman has probed into the problem from different aspects such as substitution arrangement, induction training, demand for manpower and made so many as 12 recommendations to the Leisure and Cultural Services Department. The Department also accepted all the recommendations made by the Office, and formulated new management mechanisms and instructions. It even proceeded to make improvements before the Office has concluded its investigation.

I am pleased to see that the Office's investigative effort is indeed, as The Ombudsman has said in the Annual Report, a catalyst for change. Also, government departments accepted the advice from the Office and proactively improved the quality and effectiveness of their services, thus making their operations more efficient and people-oriented.

A number of cases contained in the Annual Report are related to areas of public service of various government departments. From handling individual water seepage complaints of flats to regulating special transport services for persons with mobility difficulties across the territory, the cooperation and liaison between various bureaux and departments are warranted. Departments must
proactively initiate communication and strengthen inter-departmental coordination, so as to respond to individual complainant's concern and look for long-term solutions for problems affecting people's livelihood over the years. The Chief Executive has always been advocating "innovation", "interaction" and "collaboration", thus the current-term Government will solve problems of the public in a proactive, practical and serious manner. In this connection, the Government is revamping the Central Policy Unit into the Policy Innovation and Co-ordination Unit, which will be responsible for promoting policy research and innovation, as well as coordination across bureaux and departments. The Unit will also endeavour to encourage public participation, so as to achieve effective formulation of cross-bureaux policies, thus enhancing social benefits for the well-being of the public.

I notice The Ombudsman has expressed her concern in the Annual Report that the Government has yet to enact legislation on access to information and archives law. I would like to emphasize here that the Government attaches importance to the relevant recommendations made by the Office, and has been focusing on implementing improvement measures in the two policy areas of records management and access to information.

In her Policy Address 2017, the Chief Executive pointed out that she attached importance to the integrity of government records and held a positive view towards the enactment of archives legislation. The Law Reform Commission ("LRC") formed a sub-committee in 2013 to study archives law. Relevant bureaux and departments have been actively taking part in the study of LRC, particularly the comparative analysis of relevant laws in other jurisdictions.

The Government will proactively follow up after the submission of report by LRC upon extensive consultation. At the present stage, the Government will continue to enhance the records management work. In fact, in response to the Direct Investigation Report on Public Records Management in Hong Kong issued by The Ombudsman in March 2014, the Government has taken a series of actions in the past few years to further improve the various aspects of the existing records management regime pursuant to the recommendations set out in that Report, including providing specific guidelines on various aspects, reviewing the records management practices of bureaux and departments, enhancing transparency of records management work, tightening the arrangement for department's deferral of transfer of records to the Government Records Service, reviewing the system for public access to archival records, enhancing manpower and professional
development programme of the Government Records Service, and promoting reaching out to public organizations.

Regarding access to information, as members of the public have higher expectation of an open and transparent Government, there is an increasing number of requests made to government departments for access to information. A record high of more than 5,500 requests made by members of the public under the Code on Access to Information ("the Code") were received by various departments in 2016-2017. There were even countless requests not made under the Code. In fact, the number of requests received by departments even increased to almost 1,500 in the quarter between April and June 2017. Government departments make every effort to handle each request for access to information in accordance with the Code, such that a vast majority, i.e. 96% of the requests were met with full, and 2% of the requests were met in part.

Meanwhile, the Office also received a record high of 85 complaint cases involving access to information in 2016-2017. Amongst the 72 complaints against the alleged non-compliance with the Code by government departments, 16 were considered by the Office as involving unjustifiable refusal of providing the requested information to the public, or citing inappropriate reasons allowed by the Code for refusal to provide information. The Government will follow up on The Ombudsman's recommendations to proactively improve the operation of the Code, including strengthening training to enhance public officers' knowledge of the Code. Regarding the recommendation made by the Office upon completion of investigation on enhancing departmental officers' understanding of the Code, the Constitutional and Mainland Affairs Bureau will arrange its officers to explain the cases involved and the relevant contents of the Code to the staff of the departments concerned. Through updating the thematic website, the Government also published online compendium of cases on complaints relating to requests for information upon conclusion of investigation by the Office, so that departments and the public will have a better understanding of the Code and the application of the exemption provisions under Part 2 of the Code. As for legislative recommendations, LRC has set up the Access to Information Sub-committee for detailed reviews and studies. The Sub-committee plans to release a consultation paper this year to consult the public of their views on the issue concerned. The Government will keep closely in view and follow up on the recommendations to be made by the Sub-committee on feasible options for reform.
President, The Ombudsman stated in the Annual Report that she was pleased to note that the Government agreed to introduce an apology bill. The Apology Ordinance was passed by the Legislative Council in last legislative session and came into effect on 1 December 2017. The legislative objective of the Ordinance is to promote and encourage the making of timely apologies by the parties in dispute, with a view to facilitating an amicable settlement. Showing more care, listening more and putting oneself in others' shoes are keys to good public administration. I trust the enactment of the Apology Ordinance can encourage government departments and public organizations to be more proactive in communicating with members of the public for reaching settlements on disputes.

The Government also welcomes the Office's continuous promotion of resolving disputes by mediation. In 2016-2017, the Office successfully resolved 133 complaint cases involving a wide spectrum of livelihood issues, ranging from public housing estate management, postal delivery services, noise nuisance, vehicle registration, etc. Moreover, four government departments took part in mediation for the first time this year, and the average processing time for each case was significantly shortened from 19 days to 13.4 days, indicating that mediation is an effective means to solve problems promptly and is also widely accepted by organizations and members of the public. As indicated in the questionnaire survey conducted by the Office, all participating organizations and over 97% of the complainants in this year were satisfied with the performance of the mediators of the Office. Various government departments will definitely fully support the work of the Office in this regard.

President, the Office conducted full investigations on more than 200 complaints in 2106-2017, and over 60% of them were found unsubstantiated. I trust the Office has, in the course of investigation, witnessed the dedicated service of civil servants. Although most of the cases were found unsubstantiated, the unbiased investigation of the Office provides members of the public with an effective complaint channel and increases people's confidence in public administration. I will encourage my fellow colleagues that they should, in responding to the recommendations of The Ombudsman, apart from ensuring effective implementation of public policies and measures from the perspective of being a "service provider" and a "regulator", play the role as a "facilitator" by taking the initiative to enhance the quality of public administration of Hong Kong, so as to tally with the Chief Executive's governing style of being proactive.
Lastly, I would like to sincerely thank The Ombudsman and his professional workforce for independently and impartially handling various complaints of the public and upholding good public administration in Hong Kong. The Government will continue to support the work of The Ombudsman and proactively implement the recommendations for improvement, so that the governance can be more people-oriented and public services can more effectively meet public aspirations.

Thank you, President.

ORAL ANSWERS TO QUESTIONS


Remuneration packages for disciplined services staff

1. MR MICHAEL TIEN (in Cantonese): Some disciplined services staff have relayed to me that it has been nearly 10 years since the Government last conducted a comprehensive review of the salary structures of disciplined services, and during this period, the pressure and difficulties encountered by them when they discharge duties have grown day by day. In reply to a question raised by me on 8 February last year, the Government indicated that it would "consider whether GSRs [Grade Structure Reviews] [for disciplined services] are justified to be conducted under the existing policy framework", but no progress has been reported since then. In this connection, will the Government inform this Council:

(1) of the respective numbers of applicants for positions in the various disciplined services in each of the past five years; whether it has studied how such numbers of job applications relate to the job duties of and remuneration packages for the various disciplined services; if so, of the details; if not, whether it will conduct such a study;

(2) as it is learnt that seven fire personnel and five police officers died on duty in the past 10 years, illustrating that fire safety work is no less dangerous than police work, but the remuneration packages for fire personnel are inferior to those for police officers (who are
remunerated on the independent Police Pay Scale) of comparable ranks, how the Government responds to the demand for a review of fire personnel's salary structure, which fire personnel and unions have, over the years, been striving for; and

(3) of the details and progress of the study carried out by the Government on whether GSRs for disciplined services are justified to be conducted; whether the Government will commence GSRs for disciplined services shortly, with a view to responding to the aspirations of disciplined services and the public on improving the remuneration packages for disciplined services staff; if so, of the details; if not, the reasons for that?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, the Government fully recognizes the efforts and contribution of colleagues in the disciplined services, especially those on the front line who have all along stayed committed to their duties, upholding law and order as well as rescuing people in distress.

As with all other civil servants, the Government's pay policy for the disciplined services is to offer sufficient remuneration to attract, retain and motivate individuals of suitable calibre to join and serve continuously in the services. Following this policy principle, the Government determines appropriate salaries for disciplined services staff under the existing Improved Civil Service Pay Adjustment Mechanism and keeps under review their conditions of service and benefits, so as to offer a remuneration package that can attract and retain talent effectively to provide quality and professional services to the public.

In addition, we understand that disciplined services staff has to face ever-changing circumstances and challenges in performing their duties. To ensure that they have adequate manpower and equipment for meeting different operational needs, the Government provides them with the required resources in accordance with the established mechanism. With regard to manpower, a total of about 6,800 posts have been created in various disciplined services over the past decade, and the total establishment of the relevant departments have increased by about 11%. We have also taken a host of measures for the disciplined services, including the introduction and enhancement of various job-related allowances, reduction in conditioned hours of work, improvement of
housing benefits and implementation of construction projects of disciplined services quarters, with a view to keeping abreast of the times the conditions of service and benefits of the disciplined services. These are also important for attracting and retaining disciplined services staff, as well as boosting their morale.

Furthermore, if there are proven and persistent recruitment and retention difficulties, or if there are fundamental changes in the job nature, level of responsibilities and job complexity of any grade, the Government will consider conducting a GSR for the grade according to the existing policy.

Having consulted relevant bureau, I now give a consolidated reply to the various parts of the question as follows:

(1) The respective numbers of applicants for positions in various disciplined services in each of the past five years are set out in the Annex. Overall speaking, the number of applicants for disciplined services positions each year far exceeded the target recruitment number. For instance, the number of applicants was 30 times the target recruitment number in 2016, indicating keen competition for the positions. This reflected to a certain extent the attractiveness of the remuneration and benefits of the disciplined services.

(2) As regards the remuneration package for personnel in the Fire Services Department ("FSD"), I wish to point out that each disciplined service is unique and it is not advisable to compare them directly. Regarding the suggestion of a GSR for FSD, what is important is whether the Department is facing genuine and persistent difficulties in recruitment and retention, and whether there have been any significant or fundamental changes in the job nature of personnel of individual grades of FSD. We will continue to maintain close communication with the management and staff side of FSD, and consider the justifications for conducting a GSR for the Department with respect to the relevant policy guidelines. At the same time, we will examine the problems faced by various grades of the Department. The aim is to introduce measures that are operationally necessary and practicable for alleviating the difficulties and pressures encountered by FSD personnel in their day-to-day work and for enhancing safety. Specifically, FSD has been given approval to create a total of more than 1 400 disciplined grade posts.
over the past decade and the overall establishment of the Department has increased by close to 15%. In terms of facilities and equipment, apart from the Fire and Ambulance Services Academy which came into operation in early 2016 to enhance training for fire and ambulance personnel, each year the Government allocates funding to provide better equipment, vehicles, vessels, operational tools and protective clothing for FSD staff to ensure their safety and efficiency while performing duties. On staff benefits, the Government has in the past few years introduced and improved job-related allowances for FSD staff, which cover such duties as high angle rescue, handling of hazardous materials, as well as urban, mountain and underwater search and rescue operations, in recognition of the special skills possessed by staff of various specialized teams. The Government will also seek funding from this Council as soon as possible for the construction of FSD disciplined services quarters at Pak Shing Kok, Tseung Kwan O to cater for the housing needs of FSD staff.

(3) As mentioned above, according to the existing policy, the Government will consider conducting GSR for individual grades if they meet the established criteria. However, GSR is not a panacea for all kinds of manpower-related issues. It is equally important to improve on human resources management measures. We will continue to closely monitor the situation of the disciplined services and maintain good communication with both the management and staff side of the relevant departments. We will follow up on their suggestions for GSR in a fair and impartial manner, as well as to explore the best ways to handle the issues that they face.

President, we have always been proud of our professional and effective civil service of which the disciplined forces are an integral part. Members of our disciplined services are never daunted by hardship and are always courageous and committed in carrying out their duties. I would like to take this opportunity to express our gratitude for their efforts. We will maintain close contact with the management and staff side of the disciplined services and relevant bureaux to discuss and follow up on matters of common interest.
Number of applicants for civil service positions in the disciplined services in the past five years\(^{(1)}\)

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<tbody>
<tr>
<td>Correctional Services Department</td>
<td>17,941</td>
<td>17,425</td>
<td>13,392</td>
<td>14,094</td>
<td>15,526</td>
</tr>
<tr>
<td>Customs and Excise Department (&quot;C&amp;ED&quot;)(^{(2)})</td>
<td>0</td>
<td>20,820</td>
<td>10,347</td>
<td>19,687</td>
<td>30,452</td>
</tr>
<tr>
<td>Fire Services Department (&quot;FSD&quot;)(^{(3)})</td>
<td>21,383</td>
<td>11,765</td>
<td>13,604</td>
<td>17,959</td>
<td>11,374</td>
</tr>
<tr>
<td>Government Flying Service (&quot;GFS&quot;)(^{(4)})</td>
<td>55</td>
<td>4,706</td>
<td>2,335</td>
<td>2,759</td>
<td>4,078</td>
</tr>
<tr>
<td>Hong Kong Police Force (&quot;HKPF&quot;)(^{(5)})</td>
<td>16,391</td>
<td>14,627</td>
<td>13,795</td>
<td>16,293</td>
<td>19,299</td>
</tr>
<tr>
<td>Immigration Department (&quot;ImmD&quot;)(^{(6)})</td>
<td>18,153</td>
<td>18,622</td>
<td>32,311</td>
<td>12,467</td>
<td>29,799</td>
</tr>
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</table>

Notes:

(1) The variation in applicant numbers for individual disciplined services over the years is mainly due to the fact that recruitment exercises for certain grades are not conducted every year, or because operational needs (e.g. completion of new facilities) lead to substantial increases in the target recruitment numbers in a certain year, etc.

(2) C&ED did not conduct any recruitment exercise in 2012. It also did not recruit Customs Officers in 2014.

(3) The grades for which FSD conducted recruitment exercises varied slightly every year over the past five years. For instance, Senior Firemen (Control) were only recruited in 2015, and no recruitment exercise was conducted for Ambulance Officer in 2016.

(4) The grades for which GFS conducted recruitment exercises varied slightly every year over the past five years. For instance, only Aircraft Engineers were recruited in 2012 but no recruitment exercise was conducted for the grade in 2013, while recruitment for other grades continued. Air Crewman Officers III were only recruited in 2013 and 2016.

(5) The recruitment figures of HKPF are compiled by fiscal year.

(6) ImmD did not recruit any Immigration Assistant in 2012, nor did it conduct any recruitment exercise for Immigration Officers in 2013 and 2015.

MR MICHAEL TIEN (in Cantonese): President, on parts (2) and (3) of the Secretary's main reply, let me once again read out the relevant contents. Regarding the suggestion of a GSR for FSD, "what is important is whether the Department is facing genuine and persistent difficulties in recruitment and retention", and "whether there have been any significant or fundamental changes
in the job nature". The Secretary also pointed out in part (3) of the main reply that the Government will consider conducting GSR for individual grades if they meet the established criteria.

My supplementary question is very simple. Are the established criteria the same as the contents of part (2) of the main reply I just read out? If not, can the Secretary tell me whether there are other established criteria? If they are the same as the contents of part (2) of the main reply, does it mean that if other departments do not have any difficulties in recruitment and retention until 2047, no review will be conducted by the Bureau unless there are significant and fundamental changes in the job nature? If that is the case, I would like to ask which department should decide whether there are significant and fundamental changes in the job nature of the disciplined services. Is it the responsibility of the department led by the Secretary?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): I thank Mr TIEN for his supplementary question. The policy guidelines I just mentioned were formulated by the Executive Council in 2009 and we will give comprehensive consideration to the recruitment and retention of talent. I have talked about some recruitment situations which can be clearly reflected in the figures. People may worry about wastage of civil servants, but the present situation is actually rather stable. In 2016-2017, about 7,800 civil servants departed, accounting for 4.7% of civil servants. Among the departed civil servants, about 80% of them left through natural wastage and about 15% resigned. The civil service resignation rate is at a low level of about 0.6%. There is a similar situation in the disciplined services.

In addition to examining wastage and recruitment, we also examine whether there has been a significant change in the job nature. We will consider whether such changes have really affected the effective operation of these grades so that a GSR should be conducted to improve the situation.

In the past, the Civil Service Bureau also explained to members of the Legislative Council Panel on Public Service about the definition of the job nature and the change of duties. In short, when examining whether the changes in the job nature, level of responsibilities and job complexity of certain grades comply with the criteria for a GSR, the Government will consider whether these changes are fundamental, such that it is essential to change the positioning and structure of
the grades for sustainable and effective functioning. As regards whether it is necessary to conduct a GSR in the light of the changes in job nature or challenges faced by various departments, we will continue to communicate with the management and the staff concerned.

As I said just now, we have to examine the core of the problem and explore whether some issues can be handled through other arrangements because a GSR is not a panacea for all kinds of issues. We can implement a basketful of measures in respect of manpower, equipment and allowances such as improving the working hours, providing quarters and training to alleviate the difficulties encountered by various departments in daily operations.

**MR MICHAEL TIEN** (in Cantonese): President, my supplementary question is: which department should decide whether there are significant changes in the job nature of the grades concerned? Does the Secretary mean to say that the decision will be made by him?

**PRESIDENT** (in Cantonese): Mr TIEN, the Secretary's reply is clear enough. If you are not satisfied, you may follow up on the matter with the Secretary through other channels.

**MR LUK CHUNG-HUNG** (in Cantonese): President, the excellent disciplined service in Hong Kong is an important cornerstone of stability and prosperity and they ensure the safety of the lives and property of the public. The Secretary's reply just now is very unsatisfactory and it gives people an impression that he lacks empathy. Although there is no problem with the remuneration package, the disciplined services, especially police officers and firemen, have to bear immense work pressure and very high risk. In recent years, they have frequently been challenged, provoked and charged when enforcing the law on the front line. However, I fail to see the Government showing any concern and empathy. Has the Government shown great concern about their morale? I will discuss two aspects. First, in respect of health care, they can currently receive public health care services; can the Government take out medical insurance for them so that they can receive private health care services …
PRESIDENT (in Cantonese): Mr LUK Chung-hung, please put your supplementary question.

MR LUK CHUNG-HUNG (in Cantonese): Alright. Second, in respect of quarters, disciplined services staff also has housing problems. At present, the rank and file staff …

PRESIDENT (in Cantonese): Mr LUK Chung-hung, please put your supplementary question directly.

MR LUK CHUNG-HUNG (in Cantonese): Alright. At present, rank and file staff needs to wait for four to seven years for allocation of quarters. I would like to know the specific progress, target and plans concerning the construction of quarters for the disciplined services.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): I thank Mr LUK for his supplementary question. As I served as the Permanent Secretary for Security for five years, I believe I have a better understanding of the problems faced by the disciplined services and we had strived for more resources for the disciplined services in the past. Given that the Police have to deal with many political incidents in recent years, frontline police officers have been under immense pressure when maintaining public order. Moreover, when handling fire calls, firemen have to face greater challenges due to the latent fire hazards in old buildings or mini-storages. I fully understand the situation and share their feelings. As I just said, we will continue to examine the problems faced by the disciplined services and solve them one by one.

Mr LUK has mentioned two aspects. In respect of health care, if disciplined services staff are suffering from injury on duty ("IOD"), first, they can seek medical treatment at the Accident and Emergency Departments of hospitals under the Hospital Authority ("HA"). Second, the Government has established Occupational Health Centres ("OHCs") in Queen Elizabeth Hospital and Pamela Youde Nethersole Eastern Hospital to provide dedicated free medical treatment for government employees suffering from IOD. Third, the Government launched a pilot scheme in October 2015 to ensure that disciplined services staff
suffering from IOD with less serious conditions may opt for treatment in 11 designated general outpatient clinics under HA in different districts in Hong Kong.

In addition, government employees suffering from IOD can also benefit from two schemes implemented by the Government. First, the scheme for reimbursement of medical expenses for treatment by Chinese medicine practitioners. They can seek treatment from registered Chinese medicine practitioners and apply for reimbursement of the medical expenses incurred, subject to the daily compensation limit under the Employees' Compensation Ordinance. If they seek treatment from private doctors, they can apply for reimbursement of the relevant medical expenses under a scheme implemented by the Government in 2014. If government employees suffer from IOD outside the service hours of the above mentioned OHCs, they may immediately consult registered private practitioners and then apply for reimbursement of medical expenses, up to the maximum amount I just mentioned.

In respect of quarters mentioned by the Member, the Chief Executive announced in the 2014 Policy Address that the Government would expedite eight departmental quarters projects for disciplined services departments, aiming at providing more than 2,200 units by 2020. These departments are now actively taking forward the work. The will work with the Architectural Services Department on individual quarter projects and will apply to the Legislative Council for funding in a timely manner. We will speed up the progress and minimize the waiting time of disciplined services staff.

(Mr LUK Chung-hung stood up)

PRESIDENT (in Cantonese): Mr LUK Chung-hung, you have raised two questions and the Secretary has answered in detail. If you have other questions, you may follow up with the Secretary through other channels.

DR CHIANG LAI-WAN (in Cantonese): President, if employees keep making certain requests, I believe they must have some grounds or they feel being unfairly treated by employers. The Fire Brigade was subordinate to the Police Force when it was initially established. About 100 years later, the authorities split the Fire Brigade from the Police Force and established FSD. Since then,
the remuneration packages of fire personnel have been inferior to those of police officers.

My supplementary question is: the Secretary has just mentioned in his reply that "Regarding the suggestion of a GSR for FSD, what is important is whether the Department is facing genuine and persistent difficulties in recruitment and retention."

It can be seen from the Annex that among the number of applicants for civil service positions in the disciplined services in the past five years, the number of applicants for one department has constantly remained low, and that department is FSD. The number of applicants for FSD positions were 21,383 in 2012 and the number was almost reduced by half in 2016 to only 11,374. What are the reasons? Other disciplined services and departments …

PRESIDENT (in Cantonese): Dr CHIANG Lai-wan, please put your supplementary question immediately.

DR CHIANG LAI-WAN (in Cantonese): Alright. The Secretary has just made an integrated response but he has not given a specific and clear answer about fire personnel. The Secretary has just said that a review of the grade and salary structures of disciplined services staff will be conducted in a timely manner; I would like to ask when the work will be carried out.

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): I thank Dr CHIANG for her supplementary question. The Administration maintains close contacts with the management and staff of FSD. We often have communications through different platforms and have discussions on the latest situation.

I would like to talk about the manpower of FSD. In the past three years, the resignation rate of FSD was very low, only 0.38%, lower than the civil service resignation rate of 0.61%. Although the resignation rate was 0.38%, about 70% of these fire personnel resigned within the probation period. Therefore, FSD does not have much problem in recruitment and retention. Of course, I am not saying that we do not need to be concerned about their aspirations as the
problems are not serious. We will continue to listen to their views but I must reiterate that, under the established policies, we will comply with the principle of impartiality and equal treatment to all staff. We will liaise with the management and staff of FSD on matters such as the latest job nature. I can provide a further reply to the supplementary question raised by Mr TIEN just now; after a conclusion has been made upon completion of the studies, we will refer the relevant matters to the Standing Committee on Disciplined Services Salaries and Conditions of Service for follow up.

PRESIDENT (in Cantonese): I would like to remind Members that only three Members can raise supplementary questions on this oral question because the questions and answers are lengthy. In fact, the supplementary questions raised by Members should be brief and concise and I also ask officials to give brief and concise answers as far as possible.


Facilitating private cars to use the Hong Kong-Zhuhai-Macao Bridge

2. MR WILSON OR (in Cantonese): President, it has been reported that to better realize the benefits of the Hong Kong-Zhuhai-Macao Bridge ("HZMB"), the authorities of Hong Kong, Zhuhai and Macao are studying the introduction of a "park-and-ride" arrangement. Residents of the three places may, upon obtaining a one-off permit, drive a private car not issued with a vehicle licence for use in the place of destination to cross the boundary via HZMB, and park the car in a car park in the closed area of the boundary control point in the place of destination, and then change to local public transport together with other passengers on board after going through immigration clearance. On facilitating private cars to use HZMB, will the Government inform this Council:

(1) of the progress of the authorities' discussion with the authorities of Zhuhai and Macao on the aforesaid arrangement, and the consensus reached so far on the permitted duration of stay after entry, the quota and eligibility criteria for application for such permits, etc.;
(2) whether it will consider providing a car park in HZMB Hong Kong Boundary Crossing Facilities for inbound private cars to dovetail with the implementation of the aforesaid arrangement; whether it knows the measures to be introduced by the authorities of Zhuhai and Macao to complement the aforesaid arrangement; if it does, of the details; and

(3) of the number of cross-boundary private cars issued with both Guangdong and Hong Kong vehicle licences in each of the past three years; whether it has discussed with the authorities of Macao the issuance of Macao vehicle licences for Hong Kong private cars; if so, of the details (including the quota and eligibility criteria for application); if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): The Hong Kong-Zhuhai-Macao Bridge ("HZMB") is the first cross-boundary land-based connection among Hong Kong, Zhuhai and Macao. With HZMB, the travelling time between Hong Kong and the Western Pearl River Delta Region will be reduced substantially and thereby bringing the Western Pearl River Delta Region into an area that is accessible from Hong Kong within three hours' drive. This will reduce the costs and time for the transportation of commuters and goods on roads. HZMB will enhance the economic development and connections among the cities of Guangdong-Hong Kong-Macao Bay Area ("Bay Area"), facilitate the movements of the people in the Bay Area, and have strategic significance for the development of both Hong Kong and the Bay Area.

To facilitate the traffic and enhance the usage of HZMB, and maximize the economic and transport benefits of HZMB, the Governments of Guangdong, Hong Kong and Macao Special Administrative Regions have been actively studying and discussing the cross-boundary transport arrangements to meet the needs of local residents, travellers and trades of the three places. The three Governments have already agreed to arrange different types of cross-boundary transport for travellers with various travel needs to travel to the three places using HZMB. We will also put in place a public transport interchange at the Hong Kong Port, providing different types of local public transport for travellers between Hong Kong Port and other districts in Hong Kong.
My consolidated reply to Mr Wilson OR’s question is as follows:

On the quote in the question that the three Governments are studying the park-and-ride arrangements, according to information provided by the Mainland, the Zhuhai Port does not provide a car park for inbound private cars, and the Mainland does not plan to offer a park-and-ride scheme for Hong Kong private cars at Zhuhai Port. As regards Hong Kong Port, according to the project design of HZMB, there will be no inbound car park upon the commissioning. The Civil Engineering and Development Department and the Planning Department are conducting a feasibility study for the topside development at Hong Kong Boundary Crossing Facilities Island of HZMB to explore how to optimize the land at the Hong Kong Port for topside and underground development for commercial and other economic land uses. Subject to the study results and land use, the government will proactively consider providing parking spaces (including the feasibility of inbound car park) at the topside development to meet the parking demand of Hong Kong residents and inbound visitors.

As regards Macao, there will be an inbound car park at the Macao Port providing around 3,800 parking spaces at maximum for Hong Kong private cars. Hong Kong private cars are not required to obtain quotas, but reservation of the parking space must be made in advance. After parking and completing immigration procedures at Macao Port, visitors may take other transportation to other areas of Macao. Hong Kong and Macao Governments are finalizing the detailed arrangements of the inbound car park at the Macao Port and will make an announcement as soon as possible.

According to the discussion of the three Governments, cross-boundary private cars using HZMB are mainly regulated by the quota system. The three Governments will allow qualified cross-boundary private cars to travel between Guangdong/Hong Kong and Hong Kong/Macao via HZMB with reference to the existing quota system for Guangdong/Hong Kong cross-boundary private cars. Guangdong and Hong Kong Governments announced in December 2017 that the number of quota of Hong Kong cross-boundary private cars using HZMB to Guangdong will increase from 3,000 to 10,000 to respond to the public demand. The quotas will be valid for five years and are being distributed.

The discussion on the quota arrangements of Hong Kong/Macao cross-boundary private cars is at the final stage. Both Governments are studying
the detailed arrangements and will make an announcement once the details are confirmed.

In addition to private cars, travellers may choose to commute by cross-boundary shuttle bus, cross-boundary coach or cross-boundary hire car according to their needs. Cross-boundary shuttle bus is a frequent feeder service and is the major mode of transportation between the ports of HZMB. The basic schedule is every 5 minutes during peak hours, and every 10 to 20 minutes during non-peak hours. Cross-boundary coaches provide transport services travelling to the areas beyond the ports (i.e. within the city boundaries of the three places) with fixed stopping points. Cross-boundary hire cars also travel to areas beyond the ports, providing point-to-point and personalized cross-boundary transport service of the three places.

Besides, travellers may arrive at the Hong Kong Port by taking local public transportation (including franchised bus, green minibus, taxi and non-franchised bus) from different districts in Hong Kong. The Hong Kong Port will also provide no less than 650 parking spaces for local private cars. Visitors who arrive at the Hong Kong Port by public transportation or private car may then take cross-boundary shuttle bus to the Zhuhai Port or Macao Port.

Lastly, Mr Wilson OR enquired about the number of Guangdong/Hong Kong cross-boundary private cars in the past three years. At present, cross-boundary private cars travelling between Guangdong/Hong Kong via road-based boundary control points must apply for closed road permit from the Transport Department ("TD") after obtaining the quotas. According to TD's figures, the number of Hong Kong cross-boundary private cars issued with valid closed road permits are around 28,000, 28,600 and 30,400 in 2015, 2016 and 2017 respectively.

MR WILSON OR (in Cantonese): President, I strongly with the remarks made by the Secretary in his main reply that "HZMB will enhance the economic development and connections among the cities of Guangdong-Hong Kong-Macao Bay Area, facilitate the movements of the people in the Bay Area, and have strategic significance for the development of both Hong Kong and the Bay Area". We know that providing park-and-ride arrangements in Hong Kong, Zhuhai and Macao can prevent a sudden increase in traffic load in the transport network. However, according to our observation, the Government is still handling the
issue of ancillary transport services at tortoise speed. The Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") has put forward many proposals to the Government, but unfortunately, the Secretary and his team have turned a deaf ear to us.

I would like to take this opportunity to follow the matter up with the Secretary. The current plan of providing 650 parking spaces in Hong Kong for private cars has all along been criticized as seriously inadequate. Has the Government considered expeditiously identifying sites for providing more parking spaces? Besides, will the Government conduct studies which take the overall development of Tung Chung into account?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): I thank Mr Wilson OR for the supplementary question. Regarding the ancillary transport services to be provided, as I said earlier, we will basically put in place a public transport interchange at the Hong Kong Port which will provide different types of ancillary local public transport. As the public transport network of Hong Kong is connected to the railway system, members of the public may reach the Hong Kong Port by franchised bus, green minibus or various modes of public transportation. They may also take the MTR to Sunny Bay or Tung Chung and change to a feeder bus or green minibus to reach the Hong Kong Port.

Furthermore, as I said before, in terms of planning, the Hong Kong Government is proactively conducting a study on building a topside development at the Hong Kong Port and will consider providing parking spaces there. This will provide parking spaces not only for inbound vehicles, but also for local vehicles for Hong Kong people. On the whole, the common vision of the three Governments is to maximize the economic and transport benefits of HZMB. Thus, all of our arrangements seek to facilitate and benefit the people and promote exchange and economic activities among the people in the three places.

MR FRANKIE YICK (in Cantonese): President, HZMB connects the three places. According to the information provided by the Secretary, Zhuhai and Hong Kong will not provide car parks for inbound vehicles, but it is very clever of the Government of Macao to provide 3 000-plus parking spaces for drivers to park their vehicles there before taking public transport to the urban areas of Macao.
The measure is good in that quotas are not required and people are only required to make reservations. Can the Hong Kong Government discuss with the Macao Government to allow taxis to stop directly at the car park for inbound vehicles in Macao for passengers to alight, so as to facilitate Hong Kong people and inbound visitors of Hong Kong to return to Hong Kong after their visit in Macao? I hope the Secretary can assist in achieving this result.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, I thank Mr Frankie YICK for such a creative idea.

I believe if arrangement can be made for people to board a vehicle in Hong Kong which will take them directly to their destination, it will be welcomed by members of the public. However, it is the hope of the three Governments to give local residents and visitors of the three places a positive and comfortable experience in respect of traffic, customs and immigration clearance and cross-border visitor flow. Thus, the Governments hope to control traffic flow and visitor flow by means of a quota system.

As I said earlier, a car park with 3 800 parking spaces for inbound vehicles will be provided at the Macao Port, mainly for use by Hong Kong residents. However, Hong Kong residents have to apply for closed road permits and meet the relevant requirements of the Mainland and Macao before they can drive directly to the Macao Port and park there. According to the current plans, people can take a taxi to the public transport interchange and change to a shuttle bus to reach their destination in the three places. The three Governments have commenced a tender exercise for cross-boundary coaches and are finalizing the arrangements for the contractor. I believe Members have read in the newspaper that the champagne gold double-decker will commence service soon. It will provide high frequency service operating at a five-minute interval. If people take a taxi to the public transport interchange during peak hours, they can basically catch a shuttle bus immediately. I believe that is a very good arrangement. Nevertheless, coaches and taxis differ greatly in terms of traffic volume and passenger capacity. We hope that in implementing traffic control or a green transport system, we will use the mass transit system as the backbone.

If members of the public are interested in driving their own vehicles to Macao, they can do so. This is one way to avoid taking a taxi. As the demand
for taxis is great in the urban areas of Hong Kong, the New Territories and Lantau, I hope that taxis can stay in Hong Kong to serve local residents and visitors.

MR CHUNG KWOK-PAN (in Cantonese): President, the Secretary said in the main reply that the number of quota of Hong Kong cross-boundary private cars will increase from 3,000 to 10,000. May I know, first, whether the quota will be approved successively or in batches? The problem is that at present, while Macao has provided 3,000-plus parking spaces for Hong Kong vehicles, none is provided in Zhuhai and so vehicles have to leave immediately. However, does the Secretary know how many licences the authorities of Macao and Zhuhai have planned to issue which allow vehicles to cross the boundaries to Hong Kong? If we do not have the figures now and only 600-plus parking spaces are provided in Hong Kong, how can we handle the situation in the future?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr CHUNG for the supplementary question.

Regarding the distribution of licences for cross-boundary vehicles (i.e. vehicles issued with licences of two places), the three Governments have discussed the subject and reached an agreement. As for the exact figures, the three Governments would like to maintain closed discussions and so we would only release the figures of Hong Kong.

First, the Governments of Hong Kong and Macao are indeed holding discussions and we have agreed on the preliminary quota for Hong Kong/Macao cross-boundary private cars, but we can only release the figure to the public after the two Governments have reached a final decision.

Regarding the quota of Hong Kong cross-boundary private cars, we have completed the work on increasing the number from 3,000 to 10,000 and are issuing the quota successively. The Governments of Hong Kong and Guangdong understand that a lot of resources have been put in HZMB, and so we hope and do not exclude the possibility that the quota may be increased in the future, taking into consideration of the cross-boundary visitor flow and traffic volume. If Members refer to the current conditions for applying for a
cross-boundary private car quota to use HZMB, they will notice that the conditions are much more lenient than before. This shows that the three Governments are trying their best to enable the people of the three places to enjoy the convenience brought by HZMB.

As regards the other views expressed by Mr CHUNG, we will follow up matters on transport and trade development and continue to make improvements.

MS ALICE MAK (in Cantonese): President, given that a quota of 10,000 licences for Hong Kong cross-boundary private cars will be issued, have the authorities projected the traffic volume to traffic capacity ratio ("V/C ratio") on the connecting roads of the Hong Kong Section of HZMB (including the North Lantau Highway and the Lantau Link) after the quota has been issued, particularly during peak hours? Will local residents be affected? If traffic congestion occurs, will there be any measures to divert traffic?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Ms Alice MAK for the supplementary question.

In fact, during the planning stage of HZMB, the Highways Department has projected the future road traffic volume and considering that ancillary services have to be provided in the future, it has commenced the Tuen Mun-Chek Lap Kok Link ("TM-CLKL") project. The Northern Connection of TM-CLKL will be completed in 2019, while the Southern Connection will be completed in 2021. In any event, we estimated that by 2021, the V/C ratio of the North Lantau Highway will only reach 70%. Thus, according to our current estimation, the overall ancillary transport services will be able to meet the needs of the projected traffic volume up until 2021.

Why have the three Governments adopted the quota system as a major measure in traffic control? As I said earlier, the three Governments hope that the connecting roads and the relevant transport connections will not affect the daily lives of the local residents.

Certainly, in actual operation, we will make strategic arrangements. In the event of unusual circumstances such as traffic accidents or special weather conditions, we will put in place special corresponding measures. In terms of
general arrangement, we have designed ways of monitoring traffic volume and checking the wind speed on-site. If the traffic volume or the wind speed exceeds a certain limit, the Traffic Control Centre of TD will activate contingency measures to ensure that the effects on traffic will be minimized.

MR YIU SI-WING (in Cantonese): President, the HZMB Hong Kong Port will provide no less than 650 parking spaces for non-cross-boundary, local private cars. Apart from private cars, many non-cross-boundary coaches will pick up and drop off passengers at the Hong Kong Port after the commissioning of HZMB. During peak hours, a large number of coaches will wait for their passengers at the border control point. May I ask the Secretary whether the authorities will, in addition to providing parking spaces for private cars, consider providing sufficient parking spaces for coaches to meet the needs? If so, please provide the approximate number of parking spaces for coaches?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I thank Mr YIU for the question.

As I said earlier, since the number of private cars using HZMB will be limited, I hope we can increase our visitor flow by means of public transport. Apart from controlling the number of franchised buses and green minibuses as I mentioned earlier, we will also control the number of non-franchised coaches at the Hong Kong Port to ensure smooth traffic flow. TD will make arrangements such that after the applications of non-franchised coaches have been approved, they can pick up passengers directly at the public transport interchange. The number of times for alighting passengers will not be regulated. We will also set up an online application system to facilitate coach operators to submit their applications. We will assign about 300 time slots per day for non-franchised coaches to pick up passengers. I believe the arrangements can meet the needs of the volume of coaches during peak hours.

MR POON SIU-PING (in Cantonese): The Secretary said that 3 800 parking spaces would be provided at the Macao Port and the details would be announced as soon as possible. We noticed that it was reported that the Governments of Hong Kong and Macao had reached a consensus on the arrangements for
cross-boundary coaches. The quota would be 50, of which 34 would be issued to Hong Kong vehicles and 16 to Macao vehicles. Regarding cross-boundary goods vehicles, as I understand it, goods vehicles are not permitted to enter the urban areas of Macao and they can only operate at designated locations. May I ask the Secretary what arrangements for cross-boundary goods vehicles have been put in place by the Governments of Hong Kong and Macao at present? What is the quota? Are cross-boundary goods vehicles not permitted to enter the urban areas?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, I thank Mr POON for the question.

Regarding cross-boundary coaches, the three Governments have agreed to distribute a quota of 400, of which 150 are new quotas for Guangdong-Hong Kong coaches; 200 are existing quotas for cross-boundary coaches already operating at the ports of Guangdong and Hong Kong to switch to use HZMB; and 50 are quotas for Hong Kong-Macao coaches. We will closely monitor the situation because cross-boundary coach service is an important means to handle cross-boundary visitor flow. The above numbers of quotas have been agreed upon by the Governments.

As regards cross-boundary goods vehicles, Members have to understand that apart from visitor flow, the amount of freight is another important benefit which HZMB will bring. Concerning the detailed arrangements on cross-boundary goods vehicles made by the Governments of Hong Kong and Macao, I believe Members may have learnt from media report that while Macao vehicles can enter Hong Kong, Hong Kong vehicles cannot enter Macao. Basically, given that cross-boundary goods vehicles will affect road traffic, the Governments of both Hong Kong and Macao have imposed restrictions on them. When Macao goods vehicles enter Hong Kong, we do not permit them to drive directly to the urban areas. Arrangements will be made for them to be parked directly at a designated logistics facility. According to our temporary plan, the logistics facility is the logistics centre situated at the Airport. When Hong Kong vehicles enter Macao, they must likewise be driven to a logistics facility at the Macao Port. The arrangements work in both ways. It is not true that vehicles of one place can enter the urban areas of the other place and not vice versa.
I would also like to take this opportunity to explain that the Governments of Hong Kong and Macao have adopted the same approach, in the hope that members of the transport sector of Hong Kong will find the arrangements fair and reasonable. Nevertheless, since the logistics facilities of Hong Kong and Macao are situated at different locations, the difference in travel distance may make people think that the arrangements vary, but in fact, the two places have upheld the same principle. We hope that a fair and just approach will be adopted in handling visitor flow and freight, and that the people of Hong Kong and Macao and members of the trades will find that the overall arrangement to be in order.

PRESIDENT (in Cantonese): Third question.

Protection of children from physical and sexual abuses

3. DR ELIZABETH QUAT (in Cantonese): President, recently, there has been an appalling case in which a young child died allegedly due to abuse. Also, a female athlete has disclosed publicly that she was sexually abused by a coach when she was young. There are comments that although school social workers and teachers are in frequent contacts with children, they often overlook signs of physical or sexual abuses of children due to heavy workload and the shortage of manpower. Furthermore, the existing Sexual Conviction Record Check ("SCRC") Scheme is not comprehensive and thus unable to prevent persons with previous records of sexual conviction from engaging in child-related work. In this connection, will the Government inform this Council:

(1) whether, for the purpose of early detection and prevention of child abuse cases, the Government will implement the following measures: (1) extending the existing policy under which primary and secondary schools are required to report to the Education Bureau all cases of student dropouts and departures to kindergartens, and reviewing the relevant mechanisms and procedures, (2) stepping up the training for headmasters and teachers of kindergartens and primary schools to enhance their alertness to child abuse cases, (3) providing additional resources to extend the measure of "One School Social Worker for each Secondary School" to primary schools and increasing the manpower of social workers for each school,
(4) enhancing the case referral mechanism, including having the Social Welfare Department proactively follow up cases referred to it by kindergartens, (5) stepping up education and support for parents, such as the provision of online resources on parenting, management of emotions, etc. and the setting up of a parent counselling hotline, and (6) stepping up publicity to call on members of the public to be more alert and, in the event of signs of child abuse having been noted, offer help immediately or take the initiative to report the case; if it will implement such measures, of the details and the implementation timetable; if not, the reasons for that;

(2) whether, for the purpose of preventing persons with previous records of sexual conviction from engaging in child-related work, the Government will review and improve the SCRC Scheme, such as (1) imposing a mandatory requirement for the relevant organizations and enterprises to conduct checks on all existing and prospective employees, and (2) permitting parents hiring private tutors to conduct checks on the applicants; if so, of the details and the implementation timetable; if not, the reasons for that; and

(3) of the Government's measures to assist employers in drawing up codes of practice in respect of their employees engaging in duties that involve staying alone or physical contacts with children, providing training to such employees, and setting up a complaint mechanism, so as to prevent children from being sexually abused?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the Government attaches great importance to the well-being of children and firmly believes that every child has a right to protection against harm and abuse.

To make the cooperation amongst multi-disciplinary professionals more effective, the Social Welfare Department ("SWD") has, in collaboration with the Labour and Welfare Bureau, the Education Bureau, Department of Health, Hong Kong Police Force ("the Police"), Hospital Authority, the Hong Kong Council of Social Service, non-governmental organizations ("NGOs") and related professionals, drawn up the Procedural Guide for Handling Child Abuse Cases (Revised 2015) ("the Procedural Guide") for reference by different professionals
and those in close contact with children because of their job, to facilitate the carrying out of the necessary preliminary assessment, investigation, multi-disciplinary case conference and follow-up of welfare plans when encountering suspected cases of child abuse.

With regard to the Member's specific questions, having consulted the Education Bureau and the Security Bureau, my reply is as follows:

(1) The key to early identification and early intervention of child abuse cases is the enhancement of awareness of the school personnel in identifying the abused children and their ability in crisis assessment and handling of the child abuse cases through multi-disciplinary collaboration. If the school personnel notices wounds in a student's body or identifies a student with emotional or behavioural problems, they should report the case to the related government departments such as SWD or the Education Bureau according to the Procedural Guide. On this, the Education Bureau will strengthen related training, review the contents of relevant circular and the sections of the "Operational Manual for Pre-primary Institutions" to make them more concrete and precise.

To uphold the right of school age children to universal basic education under the law, primary and secondary schools are required to report students' non-attendance to the Education Bureau on the seventh day of a student's continuous absence so as to help non-attendance students resume schooling at an earliest opportunity. In the course of following up the non-attendance cases by the Education Bureau or the schools, if the students or their families are found to have problems or needs other than non-attendance, the cases would be referred to SWD, relevant social services agencies or the Police for provision of appropriate professional support services. As for kindergartens, the Education Bureau agrees to explore how the follow-up arrangements for student non-attendance cases without reason or with doubt should be further enhanced. Irrespective of the number of consecutive days required for reporting students' non-attendance under the mechanism, the staff of schools should pay attention to students' condition regularly and make referral as early as possible without being subject to the number of days required for reporting cases of non-attendance, should there be any suspected
cases of child abuse. The Education Bureau will maintain close communication with SWD to explore how to further enhance the case referral mechanism.

The Education Bureau implements the Comprehensive Student Guidance Service where primary schools adopt the Whole School Approach. Teachers work in collaboration with student guidance personnel and professional staff to provide remedial, preventive and developmental guidance services for the establishment of a robust student guidance system. Currently, there are two types of funding modes for student guidance service through provision of manpower or grants, respectively. Schools may, based on their own needs, use their funding flexibly to employ guidance personnel or procure social work service from NGOs. The Government has provided a top-up Student Guidance Service Grant to public sector primary schools with five or more operating classes starting from the 2012-2013 school year.

The feedback received by the Education Bureau indicates that the vast majority of primary schools could make good use of the funding to arrange for one or more school-based student guidance personnel, and currently 90% of the public sector primary schools in the territory have employed registered social workers as student guidance personnel. The Education Bureau is aware of the request in the community for "one school, one social worker" for primary schools. Taking into consideration the needs of schools with regard to guidance service, the Education Bureau will explore the future development with the Labour and Welfare Bureau with an open mind, and make suitable resource provision correspondingly.

To raise the awareness of teachers of secondary, primary and kindergarten levels, the Education Bureau organizes talks or seminars annually in collaboration with SWD, to advise them on early identification, intervention and support of suspected student victims of child abuse and domestic violence. Moreover, the Education Bureau commissions tertiary institutions every year to provide Certificate Courses on Student Guidance and Discipline for Teachers of Primary/Secondary Schools which cover various modules on "child abuse" and "domestic violence", etc. Besides,
starting from this week, the Education Bureau will jointly organize four briefings with SWD and the Police for teachers of all kindergartens and primary schools in the territory. The briefings will introduce how to identify and make referrals of the suspected child abuse cases so as to strengthen teachers' ability to identify the symptoms of child abuse, raise their sensitivity as well as enhance their understanding of the handling procedures.

To further enhance parent education, the Education Bureau will launch a new parent education mobile website shortly. The website enables parents to access information on supporting the physical and mental development of students. The Government has also set up a Task Force on Home-school Co-operation and Parent Education under the Education Commission to review the existing approach in promoting parent education and home-school cooperation, and formulate the direction and strategy for further promoting parent education and home-school cooperation with the objective of assisting parents to help their children grow up happily and healthily.

Moreover, the 65 Integrated Family Service Centres and two Integrated Services Centres operated by SWD or NGOs provide a spectrum of services to strengthen families' capability of taking care of children and to help parents to improve their care quality. The 21 Family Life Education Units over the territory also deliver a package of family life education services to strengthen parent-child relationship and communication, and help parents to better understand the developmental needs of their children for early identification of their children's problems so that assistance from the relevant service units may be sought when needed. Parents in need may dial the 24-hour SWD hotline to seek counselling or referral to appropriate service units.

As regards public education and promotion, SWD has in recent years launched an animated short film on effective parenting and harmonious inter-generational family life, produced and launched a series of Announcements in the Public Interest ("APIs") on television and radio, and promulgated through posters the messages of combating domestic violence and seeking timely and early assistance. In 2017-2018, SWD will also launch a series of APIs as
well as disseminate the messages of child protection and prevention of child abuse in public transportation systems and through posters and hyperlinks to social media.

(2) and (3)

To better protect children and mentally incapacitated persons ("MIPs") by allowing organizations or enterprises engaging persons to undertake work relating to the above two kinds of persons to check whether their prospective employees have any criminal convictions records against a specified list of sexual offences, the Government implemented in 2011 the Sexual Conviction Record Check ("SCRC") Scheme through the Police in accordance with the advice of the Law Reform Commission ("LRC").

Currently, the SCRC Scheme covers prospective employees and contract renewal staff applying to organizations or enterprises for work relating to children or MIPs as well as staff assigned by outsourced service providers to other organizations or enterprises to undertake work relating to children or MIPs. These organizations include schools, residential care homes for disabled persons, private tutorial centres and private interest/activity institutions such as swimming clubs, sports associations and music centres.

The Security Bureau has from time to time reviewed the SCRC Scheme and taken active measures to gradually extend its coverage. Since 1 April 2015, the SCRC Scheme has been gradually extended to cover all eligible contract renewal staff. The Security Bureau will continue with the gradual approach when considering further extending the scope of the SCRC Scheme on the basis that its handling capacity is ensured. Regarding whether it is necessary to make it mandatory for employers/staff to undertake checking, the Security Bureau considers that a balance must be struck between the two major principles of protecting children and facilitating rehabilitation. Consensus in the community will also be required.

Besides, the Review of Sexual Offences Sub-committee under LRC is conducting a thorough review of the laws concerning sexual offences, and published two related consultation papers in 2012 and
2016 respectively. The review by LRC is still in progress and when it is completed, the Security Bureau will study the feasibility of introducing an all-round and legally binding checking regime, encourage discussion in the community and seek to achieve consensus through consultation.

DR ELIZABETH QUAT (in Cantonese): President, referring to the series of measures mentioned in part (1) of my oral question, the lengthy reply given by the Secretary gives people the impression that measures have been implemented on all fronts, but none of them seems to be adequate. That is why tragedies similar to the "Lam Lam" incident continue to happen. Therefore, I opine that the Secretary should take this opportunity to conduct a comprehensive review to see what improvement can be made in every respect. Yet, the most pressing task is to target high-risk families for early intervention and provision of support.

President, my supplementary question is concerned with the SCRC Scheme mentioned in part (2). Since the existing scheme is not mandatory and employers can decide whether or not to conduct the checks, I would like to know whether or not our children should be protected? At present, there is no way for parents to conduct the relevant checks even if they want to. In the main reply, the Secretary said that "a balance must be struck between the two major principles of protecting children and facilitating rehabilitation". President, I believe there is already a consensus in society to protect children from sexual abuse. I opine that there are many other ways to facilitate rehabilitation, but children have no choice. I would like to ask the Secretary whether our guiding principle puts protecting children or the interest of adults as the first priority. Should the community put protecting children as the first priority?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I believe our policy is in line with public consensus that protecting children should be given the first priority. As I have just said in the main reply, LRC is conducting a thorough review of the relevant issue. Upon completion of LRC's review, we will examine how the relevant laws or scheme can be improved based on the review results.
MR IP KIN-YUEN (in Cantonese): President, I am sure that all of us feel very sad about the "Lam Lam" tragedy, and to address the issue, one approach is certainly the proper handling of the notification mechanism. As the Government has pointed out in the main reply, "[i]rrrespective of the number of consecutive days required for reporting students' non-attendance under the mechanism, the staff of schools should pay attention to students' condition regularly and make referral as early as possible …" As pointed out by the Government in the paper submitted for the meeting of the Subcommittee on Children's Rights held yesterday, "[t]he first person in contact of the child should inform the school supervisor/principal". I trust that all teaching staff are well aware of their responsibilities. However, on the requirement to "inform school supervisors/principals", while I think the majority of school supervisors and principals also have a strong sense of responsibility, we can see from teachers' requests for assistance that there are times when teachers strongly believed the case concerned involved child abuse, their requests for making notification or referral were disagreed by school supervisors and principals. What should teachers do then? If they continue to follow …

PRESIDENT (in Cantonese): Mr IP Kin-yuen, please raise your supplementary question.

MR IP KIN-YUEN (in Cantonese): … I will raise my supplementary question in a moment. If they follow their supervisor's decision and do not notify, they will certainly have an unsettling conscious. I would like to ask, if this happens, will the authorities give clear instructions with regard to the role of the principal or supervisor? More importantly, when teachers or other teaching staff come across similar cases, will the Government provide any guideline as to whether they should follow the instruction of their supervisors or make notification?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, with regard to the Member's question on the provision of guideline by the Education Bureau, it is vital that the first person in contact of the child should inform the school supervisor or principal and discuss with them the follow-up work. If we assume that all the relevant parties, including teaching staff, school supervisor or principal, have not put the interest of students as the priority
concern, we may have to consider taking a number of preventive measures. In my opinion, it is imperative for the sector to seriously discuss if our current trust in the relevant professionals is appropriate.

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

Under the existing system, it is hoped that all parties will act in concert to solve the problem, and it should not be assumed that the relevant parties would adopt a precautious attitude and put other considerations but not the well-being of children as the priority concern. Of course, I understand that even Homer nods. That is why we need to take into consideration the queries raised by Members just now, i.e. how should the teaching staff who is the first person in contact of the child deal with the situation. Nonetheless, Deputy President, it is very difficult for me to answer this question as this depends on whether there are provisions in the code of professional ethics of the teaching staff, which may help deal with such cases that is contrary to our basic values. I can only say that for social workers, to put it simply, they should report the case according to the relevant guideline.

DR FERNANDO CHEUNG (in Cantonese): Deputy President, concerning the tragedy of "Lam Lam", we learnt from news reports that her kindergarten teacher did notice some problems and thus reported to the principal, but nothing had been done; likewise, the school of "Lam Lam's" brother also claimed that it had made report to SWD, but whether the action taken was referral or merely consultation, it remains a mystery. For this kind of tragedy, prevention is certainly most important, and assistance should be provided to parents to prevent the recurrence of such tragedies. However, it is equally important for the relevant professionals to have access to these cases and make report in the aftermath, because a precise reporting system and clear responsibility can help prevent such tragedies from happening.

We therefore propose to immediately explore the possibility of formulating a mandatory reporting system. The United Nations Committee on the Rights of the Child recommended Hong Kong to take this measure in as early as 2013, but up till today, when the Secretary answered Mr IP Kin-yuen's supplementary
question, he still said that all the relevant parties should act in concert to solve the problem and discuss with the principal or supervisor. And yet, if the safety of children is at stake, how can the relevant parties act in concert to solve the problem?

The Secretary had stated in public that he was open-minded as to the mandatory reporting mechanism and was willing to look into it. How is he going to look into it? Is there any inter-departmental working group undertaking this work at the moment? Is there any timetable and roadmap?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, with regard to the issue just mentioned by the Member, just as the remark I made in public that he quoted, we adopt an open attitude in respect of the mandatory reporting mechanism. As Members may be aware, the issue has been discussed in both the international and local communities and when I attended a meeting of the Panel on Welfare Services, some participants had even expressed some slightly different views. Since we have yet to formulate any concrete work plan on the proposed mandatory reporting mechanism, we can only promise Members that consideration will be made to see if there is a need to conduct a review of the relevant legislation. Although the preparatory work has yet to start, I think it will commence shortly.

DEPUTY PRESIDENT (in Cantonese): Dr Fernando CHEUNG, which part of your supplementary question has not been answered?

DR FERNANDO CHEUNG (in Cantonese): I asked the Secretary if there was any roadmap or timetable, but he has not answered. Does this mean that the Government will not take forward the relevant work?

DEPUTY PRESIDENT (in Cantonese): Dr CHEUNG, you have clearly pointed out the part that you request elucidation, so please be seated. Secretary, do you have anything to add?
SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, my reply earlier is that we will take forward the work as soon as possible.

DR PIERRE CHAN (in Cantonese): Deputy President, with regard to cases of child abuse and sexual abuse, hospitals and doctors have actually provided care and protection for children in the absence of additional resources. Hence, the institutional inadequacies of the Education Bureau, Labour and Welfare Bureau and Security Bureau have been condoned. Why do I say so? That is because victims of many suspected child abuse cases are often sent to the Accident and Emergency Department or paediatric wards of hospitals, and given the performance pledge of SWD that a meeting of the Multi-disciplinary Case Conference on Protection of Child with Suspected Abuse ("MDCC") be convened within 10 days to decide on the arrangement for the child in question, the abused children, though they may not be sick, are forced to stay in the crowded paediatric ward for two weeks or even more than four weeks, pending further arrangement by the Government. I have confirmed that this is the case. My supplementary question for the Government is: Will the Government provide designated funding for MDCC, which comprises members from some 10 different departments; if it will, what is the timetable? If not, the reasons for that?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Deputy President, after this unfortunate incident, the Education Bureau and the Labour and Welfare Bureau have commenced a review on the relevant work and examined the resources required to provide support. It is true that Members of MDCC come from different departments and as the Secretary for Labour and Welfare, I have paid special attention to the workload of colleagues in SWD's Family and Child Protective Services Unit to see if there is a need to increase manpower. As for other areas, I think we will have to find out in collaboration with other departments and it is thus impossible for me to immediately provide Members with information about the specific arrangements.

DEPUTY PRESIDENT (in Cantonese): Fourth question.
Handling of unauthorized building works

4. **MR PAUL TSE** (in Cantonese): *Deputy President, the Buildings Department ("BD") has adopted a zero-tolerance approach for unauthorized building works ("UBWs") in recent years. In old districts such as Kwun Tong, Wong Tai Sin, Ngau Tau Kok, San Po Kong and Lei Yue Mun, a large number of commercial and residential buildings are suspected of having UBWs, with numerous instances of BD issuing removal orders for UBWs. For example, BD has issued removal orders in respect of the unauthorized rooftop structures in a number of buildings located on Yuet Wah Street in Kwun Tong, in which many elderly property owners have lived for the past few decades. Also, BD has ordered the owners of some seafood restaurants in Lei Yue Mun to remove the UBWs there, which were erected for protection against typhoons and waves and for showcasing the fishing village's characters, thus reverting to the original primitive squatter structures. On the contrary, when she attended this Council's Question and Answer Session held earlier this month, the Chief Executive ("CE") called on the various sectors of the community to adopt a forbearing attitude towards the UBWs found in the residence of the newly appointed Secretary for Justice ("SJ"). Some media have described this approach of handling the incident as "giving officials a full licence to set a fire while forbidding the common people even to light a fire for their lamps". CE also pointed out that the policy for handling UBWs had changed continuously in the past decade, and that the authorities treated UBWs involving government officials and members of the public under the principle of equal footing and fairness. In this connection, will the Government inform this Council:

(THE PRESIDENT resumed the Chair)

(1) whether it has assessed if there is any difference in terms of the attitude and practices adopted when CE and the relevant government departments dealt with the UBWs found in the residences of the former CE and senior government officials, and the cases of alleged UBWs in the properties of members of the public (in particular the unauthorized rooftop structures on Yuet Wah Street);
(2) whether it has assessed if members of the public and shop operators could, on grounds of insufficient alertness and sensitivity, request the authorities to review afresh their UBW cases; if it has assessed, of the outcome; if not, the reasons for that; and

(3) whether BD will, in response to CE’s calling on the adoption of a forbearing attitude in dealing with the UBW issue involving SJ’s residence and as it has been reported that it would take BD 100 years to complete the handling of the UBW cases which have accumulated to over 800,000, review and revise the relevant policy; if so, of the details; if not, the reasons for that?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr TSE for his question. The Government has always attached great importance to building safety of Hong Kong. When formulating and implementing policy in dealing with unauthorized building works ("UBWs"), the Government has always put building safety in the first place, and will adopt a pragmatic approach to handle the matter impartially according to the priority and category of the UBWs concerned. The Building Authority (i.e. the Director of Buildings) is responsible for taking enforcement actions against UBWs in accordance with the Buildings Ordinance (Cap. 123) ("BO"). We have formulated a clear enforcement policy against UBWs. The Buildings Department ("BD") has been handling UBWs cases in accordance with the BO and the enforcement policy under the principles of acting in accordance with the law and impartiality.

BD has adopted a "risk-based" approach in determining the priority of enforcement actions against UBWs and targeted the "actionable" UBWs for actions. According to the enforcement policy against UBWs adopted in April 2001, "actionable" UBWs include seven categories, including (1) UBWs constituting obvious hazard or imminent danger to life or property; (2) UBWs newly constructed or under construction; (3) UBWs constituting serious hazards or serious environmental nuisances; (4) major individual items; (5) items in individual buildings with extensive UBWs; (6) UBWs in buildings targeted for large-scale operations ("LSOs"); and (7) UBWs in environmentally friendly features granted with gross floor area concessions. To strengthen enforcement against UBWs, we extended the coverage of "actionable" UBWs to include all
UBWs in rooftop, podiums, yards and back-lanes of the buildings in April 2011. The expanded scope of "actionable" UBWs has been adopted until now.

BD takes enforcement actions against "actionable" UBWs. Specifically, unless the owner proactively handles the relevant UBWs, say by appointing an authorized person ("AP") to submit rectification proposals, BD will issue a removal order requiring the owner concerned to carry out works to remove the UBWs within a specified period of time, and register the removal order in the Land Registry ("LR"). If the owner does not rectify the situation within the period of time specified in the removal order without reasonable excuse, BD will consider instigating prosecution actions against the owner concerned and may arrange government contractor to carry out necessary removal or rectification works, and recover the cost of works, supervision charge and surcharge from the defaulted owners.

Regarding "non-actionable" UBWs, BD will, depending on the situation, serve advisory letters or warning notices requesting the owner to remove the UBWs voluntarily. If the owner fails to remove the specified UBWs in the warning notice by the date specified therein, BD will send the warning notice to the LR and register it in the title records of the subject premises. The warning notice will only be written off upon removal of the UBWs by the owner.

The policy and stance all along adopted by BD in its enforcement against UBWs is to require the owner to rectify the irregularities as soon as practicable. Under normal circumstances, BD will not initiate criminal investigation into whether there have been contraventions of the BO. However, if there is information showing that registered persons under the BO are suspected to be involved in the erection of UBWs, or that the registered persons knowingly submit misrepresented documents to BD, etc., BD will duly follow up the case, including initiating criminal investigation.

In consultation with BD, my reply to the three-parts of the question is as follows:

1. In handling matters relating to UBWs, BD has been following the principles of acting in accordance with the law and impartiality, and takes appropriate actions pursuant to the BO and the prevailing enforcement policy. In accordance with the established practice
adopted since mid-2011, if the owners involved in the UBWs cases under media inquiry and report are senior government officials or community celebrities, BD will accord priority in carrying out site inspection with a view to investigating if the UBWs in fact exist so as to clear any public concerns as soon as practicable. If any UBWs are identified in the site inspection, BD will take appropriate actions in accordance with the BO and the prevailing enforcement policy in an impartial manner and will not adopt different enforcement standards because of the identity of those involved.

We must reiterate that BD colleagues have all along been upholding their professionalism and independence, and taking appropriate actions in accordance with the BO and the prevailing enforcement policy.

(2) and (3)

The prevailing enforcement policy against UBWs has been put in place since April 2011. In view of the sheer amount of UBWs, the relevant policy has always upheld the "risk-based" principle and suitably accord enforcement priorities. As mentioned in Part 1 of my reply, in handling every single UBWs case, BD has been taking appropriate enforcement and follow-up actions in accordance with the BO and the prevailing enforcement policy against UBWs impartially. If "actionable" UBWs under the prevailing UBWs enforcement policy are identified upon site inspection, irrespective of whether the owner is aware of the existence of UBWs in his or her premises, BD will issue a removal order to the owner requiring removal of the UBWs within a specified period of time, unless the owner concerned proactively deals with the relevant UBWs, say, by appointing an AP to submit rectification proposals. In the past three years (i.e. from 2015 to 2017), on average, BD issued about 13 000 removal orders and about 26 000 UBWs were removed annually.

We must be cautious in making any major change to the existing UBWs enforcement policy, lest that it would cause confusion to the public or even convey a wrong message to the community that the
Government lacks determination to combat UBWs. The Government has no plan at this stage to introduce any major change to the existing UBWs enforcement policy. BD will continue to take a multi-pronged approach to tackle the problem of UBWs. Apart from existing measures including prosecution, imposing surcharge on default works, implementing the validation and financial assistance schemes, and providing support through social service teams, BD will explore other effective means to encourage owners to remove their UBWs. BD will also endeavour to raise its efficiency and reprioritize its work as necessary, such as adjusting the number of target buildings under LSOs, or focusing its resources on conducting LSOs against buildings subject to higher risk caused by UBWs.

MR PAUL TSE (in Cantonese): President, owing to the high land premium policy over the years, land in Hong Kong is worth more than gold and Hong Kong has always ranked first in the world as the city with the least affordable housing. According to the Director of Audit's Report No. 64 published in 2011, the policy of BD on UBWs had changed from the "risk-based" approach adopted in 2001, targeting seven types of UBWs, to the approach of covering all UBWs in roof-tops, podiums, yards and back-lanes in 2011. At that time, the number of UBWs was over 300,000, and 28,000 buildings were involved. The number of UBWs removed decreased from the original 40,000 per annum to the lowest at 17,000, and has now risen slightly to 26,000 per annum.

President, we all understand that UBWs posing a serious risk must be removed. But for UBWs erected in buildings in old districts for years and posed little threat, why can't they be handled with the so-called "forbearing attitude" as suggested by the Chief Executive? Who should be more worthy of being treated with a "forbearing attitude" as suggested by the Chief Executive: the ordinary people who work hard and stay frugal their whole life, saving up to buy a small flat for living in peace and contentment; or certain high officials with professional competence and expertise in speculation and tax avoidance who buy luxurious homes?
SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr TSE for his supplementary question. Regarding the policy on UBWs, there have been some changes over the years and I would like to give a brief account here. Before 2011, given that there were as many as 800 000 UBWs in Hong Kong in 2000, the Government thus launched a large-scale operation to remove those UBWs. What kinds of UBWs were targeted? Many of the UBWs were iron cages erected in the exterior of buildings which would pose threats to fire escapes, fire-fighting and even building structure. After 10 years' efforts, 400 000 UBWs were removed by 2011 and the problem posed by iron cages was basically rectified. Hence, have government efforts been wasted? No, certainly not.

At that time, the community pressed the Government to enhance the operation against certain unfair conditions. For example, the owner of a flat with a small floor area built a glass house to enlarge the floor area of the flat, which, in the eyes of some people, was not fair. Hence, in 2011, the so-called "top, middle and bottom" removal operation was implemented. It aimed at removing UBWs in roof-tops, podiums and yards. As parts of these structures were inside a building, detection was difficult and in turn increased the difficulty in law enforcement.

As Mr TSE has said, the number of UBWs removed once dropped to 13 000 per annum, but the numbers of UBWs removed in the past one or two years had risen back to 26 000 to 27 000 a year. From this we can see that the work has been rather effective. In 2014, there were 68 000 cases in which removal orders were issued but yet to be complied with. As at the end of 2017, the number of such cases was lowered to about 55 000 and the backlog was reduced.

Regarding whether the policy will be changed, as I said in the main reply, after a policy is introduced, a consensus has to be fostered in the community through discussion. In fact, the Director of Audit published a report on UBWs in 2015 and the Public Accounts Committee ("PAC") of the Legislative Council had held hearings. PAC opined that the Government should step up law enforcement actions against UBWs. At the present stage, the Government has no intention to change the present enforcement policy, but we will certainly take on board Members' views.
MR WU CHI-WAI (in Cantonese): The Secretary has repeatedly stressed in his reply that BD has adopted the principle of impartiality in handling UBWs.

I remember when Carrie LAM was the Secretary for Development, she once said that the problem concerning UBWs in Henry TANG's residence could not be resolved by merely spending money on restoration. She said the Government should enforce the law on the principle of impartiality to achieve the deterrent effect. In respect of UBWs in Henry TANG's residence, BD conducted a criminal investigation and Mrs TANG was eventually penalized.

However, as regards UBWs in Secretary for Justice Teresa CHENG's residence, from the information disclosed, we do not see BD has any intention to conduct a similar criminal investigation. Do not forget that there are UBWs in the residence of Secretary for Justice Teresa CHENG and there is an unauthorized basement in her spouse's residence. May I ask the Secretary why BD has not adhered to the principle of impartiality in handling UBWs in Secretary for Justice Teresa CHENG's residence?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr WU for his supplementary question. BD has indeed adhered to the principle of impartiality. As regards the cases involving high-ranking officials and celebrities, the Government has put in place a special policy since 2011 to accord priority to handling such cases. The relevant standards, policy and legal basis applied to these cases are no different to those of other cases.

Mr WU has specifically mentioned criminal prosecution. I will not comment on individual criminal prosecutions that initiated in the past, which I hope Mr WU will understand. As I said in the main reply, under normal circumstances, BD does not take criminal follow-up actions on individual cases. Why? First, its focus is to remove UBWs to restore the safety of the buildings and reduce nuisances; and second, if criminal investigation is to be carried out on individual cases, it is very hard to obtain evidence and will take up a lot of BD's resources.

As regards whether criminal prosecutions have been conducted in the past, the answer is in the affirmative. Between 2009 and 2017, 27 prosecutions were conducted. Whether prosecutions are instituted will depend on the evidence. Let me briefly explain the basic requirements under the present law but I cannot
provide any legal opinions here. If someone is well aware that approval of the Building Authority must be obtained in order to carry out certain works and if there is evidence to prove that the approval has not been sought, BD may submit the evidence to the Department of Justice to decide whether prosecution will be instituted. As I said just now, though the number of prosecutions instituted in the past is small, such action has been taken. As regards the cases being followed up by BD and the future direction of work, I believe Mr WU also understands that I am not in a position to make comments here.

(Mr WU Chi-wai stood up)

PRESIDENT (in Cantonese): Mr WU Chi-wai, the Secretary has already answered your supplementary question in detail.

DR JUNIUS HO (in Cantonese): President, as pointed out by the Secretary, the problem of UBWs in Hong Kong is very serious and has become a common social phenomenon. Apart from instituting prosecutions against owners of seven types of UBWs that pose higher risks, are there more proactive approaches for the Government to rectify the problem in the community? For example, can it vigorously publicize the 19 amenity features applicable to small houses in the New Territories to help villagers abide by the law? Also, there are over 200 categories of minor works applicable to urban buildings. If it is found that the coverage is not wide enough, will the authorities consider expanding the scope, so that residents can enlist the help of professionals to make early applications and hence avoid falling into legal traps?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Dr HO for his supplementary question. As I have said, the current law enforcement policy was formulated after thorough discussion by the community, taking into account various aspects. The Government has no intention to tighten or relax the current policy at the present stage. But under individual circumstances, such as the examples cited by Dr HO, if there are specific recommendations, the Government is willing to hear and give due consideration.
MR LEUNG CHE-CHEUNG (in Cantonese): President, the problem of UBWs has plagued many people. I have received many people in the district requesting for help concerning this problem. We think that BD or the Lands Department has always handled the cases by the book and I think the Government has also handled irregularities in a fair and just manner. Hence, I hope that BD or other related departments will continue to act in that spirit.

However, I think some problems are worth reviewing. May I ask the Secretary whether the authorities will treat all people equally in respect of cases of non-compliance? For example, I have heard that an incumbent Legislative Council Member has UBWs in his/her residence but the Lands Department and BD seem to have different views. The Lands Department considers the works to be legal while BD considers otherwise. In such a case, how should it be properly handled?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I thank Mr LEUNG for his supplementary question. The wording used by Mr LEUNG was "handled by the book" while I use "impartially", which means acting in accordance with the legal standard and spirit. Of course, different departments may base on different legal justifications in making a decision, where one department may base its decision on this chapter of the law while another department may base on another chapter, which is understandable.

I have confidence that both BD and the Lands Department will handle the problem in accordance with the law. There is only one simple fact involved, which is whether there are UBWs in a building or not. This fact will not change whether the person or owner involved is a Legislative Council Member or not. This is just that simple.

PRESIDENT (in Cantonese): Fifth question.

Unauthorized building works and integrity checking related to principal officials

5. MR CHARLES PETER MOK (in Cantonese): President, it was reported in the press on the sixth of this month, the day on which the Secretary for Justice ("SJ") took office, that there were a number of unauthorized building works
("UBWs") contravening the Buildings Ordinance in SJ's residence which she owned through a company. SJ subsequently stated that an authorized person appointed by her and personnel of the Buildings Department had, after verification, confirmed the matter. Some members of the public have expressed concern about the integrity and conduct of principal officials, and whether there were errors or omissions in the integrity checking conducted on candidates for principal official posts, resulting in the failure to uncover the UBWs in SJ's residence. In this connection, will the Government inform this Council:

(1) how the Government ensures that criminal investigations and legal proceedings (if any) relating to the UBWs in SJ's residence are conducted impartially;

(2) whether the existing Code for Officials under the Political Appointment System has provided that punishments may be imposed on those principal officials found to have made false statements or misleading omissions in the process of integrity checking; if so, of the details; if not, the reasons for that; and

(3) as UBWs have been uncovered in recent years in the residences of a number of principal officials, whether the Government has reviewed if there are any inadequacy in the integrity checking conducted on candidates for principal official posts; if it has reviewed, of the outcome; whether improvements will be made, such as requiring the candidates concerned to submit certifications issued by authorized persons that no UBWs are found in the properties in which the candidates have beneficial interests?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, with regard to Mr MOK's question, after consulting the relevant offices and bureaux, I am providing a consolidated reply as follows:

(1) The Building Authority (i.e. the Director of Buildings) is responsible for taking enforcement actions in accordance with the Buildings Ordinance ("BO"). In handling matters relating to unauthorized building works ("UBWs"), the Buildings Department ("BD") has been following the principles of acting in accordance with the law and impartiality, and takes appropriate actions pursuant to BO and
the prevailing enforcement policy. In accordance with the established practice adopted since mid-2011, if the owners involved in UBWs cases under media inquiry or report are senior government officials or community celebrities, BD will accord priority in carrying out site inspection with a view to investigating if UBWs in fact exist so as to clear any public concerns as soon as practicable. If any UBWs are identified in the site inspection, BD will take appropriate actions in accordance with BO and the prevailing enforcement policy in an impartial manner and will not adopt different enforcement standards because of the identity of those who involved.

So far, the Police have separately received reports from two individuals requesting the Police's investigation, based on their knowledge from the newspaper and public information that there were suspected illegal structures in a public officer's property and no reference to the relevant information was made in applying to the bank for mortgage. The cases, classified as "Request for police investigation", are followed up by the Wanchai Police District.

The Police, in respect of each case, will conduct fair and impartial investigation regardless of the background of the person involved. If there is reasonable suspicion of any contravention of law, the Police will carry out enforcement according to the law.

Politically appointed officials ("PAOs") must ensure that no actual or potential conflict arises between their public duties and their private interests, and should refrain from handling cases with actual or potential conflict of interest. In order to avoid possible perception of bias, partiality or improper influence, the Secretary for Justice has delegated to the Law Officer (Civil Law) the authority to handle all civil matters relating to alleged suspected unauthorized/illegal structures of her property at Tai Lam, Tuen Mun, including advising the Government bureaux and departments concerned, and representing the same in the conduct of any civil proceedings. Based on the same considerations, the Secretary for Justice has also delegated to the Director of Public Prosecutions the authority to handle all prosecutorial matters relating to such matters, including (should it become necessary to do so) the decision as to whether any
prosecution action should be commenced against any persons involved in the matter. The Secretary for Justice will not participate in any relevant decisions or legal proceedings regarding such matters.

(2) The Code for Officials under the Political Appointment System ("the Code") states that PAOs shall abide by the law and observe the highest standards of personal conduct and integrity at all times. They shall also ensure that no actual or potential conflict arises between their public duties and their private interests. While the Code provides rules and principles for appropriate conduct under certain circumstances, it is difficult for the Code to specify every type of act or behaviour expected of PAOs. Where the circumstances have not been prescribed, it is the responsibility of PAOs to make judgments in accordance with the principles set out in the Code on how best to act in order to uphold the highest standards, and they shall act in the best interests of the Hong Kong Special Administrative Region as a whole.

(3) All PAOs are required to undergo extended checking before appointment. The procedures are largely the same as those adopted for extended checking in the civil service. The Hong Kong Police Force is responsible for conducting the checking (including conducting interviews with the subject, his/her referees and supervisors as well as inspecting relevant records, etc.). In order to maintain the effectiveness and integrity of the extended checking system, it is necessary to keep the specific arrangements and the related details of the system strictly confidential.

MR CHARLES PETER MOK (in Cantonese): President, actually it would have been best if it had been the Secretary for Justice who answered all the three parts of this question, but now we have to trouble the Secretary for Constitutional and Mainland Affairs to give us replies.

No one in Hong Kong understands why integrity checking has come to such a pass. It was not until I heard the last sentence of the main reply given by the Secretary that I got a little understanding of it. That sentence is: "In order to maintain the effectiveness and integrity of the extended checking system, it is
necessary to keep the specific arrangements and the related details of the system strictly confidential." This almost tells us that the Legislative Council has no power to monitor the system. In my view, that sentence should be rewritten as: "In order to maintain people's confidence in the extended checking system, it is necessary to make public the specific arrangements and details of the system."

President, neither Members nor the public understand why the Secretary for Justice was not asked the basic compulsory question "Are there any UBWs in your residence?" when she underwent extended checking. Did someone give a false or incomplete answer? Or was it the case that during the checking, the authorities did not take the initiative to carry out any investigation, such as conducting a land search and examining Google Earth pictures? Through these channels, the authorities actually could have found the relevant information. Having listened to the Secretary's main reply, I now understand the reason for that. As it transpires, where the circumstances are not prescribed in the Code, the officials are only required to make their own judgments in accordance with the principles set out therein, and then use what they consider to be the most effective means to meet the highest standards. In other words, the authorities have passed the ball wholly to the subject being checked. Fancy that! The subject being checked is so powerful.

President, I now raise my supplementary question. This UBWs incident concerning the Secretary for Justice is apparently not just about UBWs. As it involves the procedures for applying for a mortgage, etc., it is also about integrity. In the course of the integrity checking, did someone fail to declare certain things, or did the Government fail to investigate certain things, resulting in the present situation where every day all government officials (including the Secretary for Constitutional and Mainland Affairs and the Chief Executive), just as we do, watch the person concerned "squeeze toothpaste out of a tube" or wait for that person to do so?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Mr MOK for his supplementary question. I think I can respond to his supplementary question from two perspectives. First, under the existing system, before considering whether to appoint a particular person as a PAO, the Government will arrange for extended checking to see if the person is fit for the post. Given that the extended checking system itself is based on trust
and cooperation of all the parties involved in the system, I hope Members can understand that it is necessary to keep the specific arrangements and details of the system confidential. I cannot disclose them here.

Second, under the existing system, PAOs must abide by the Code when performing their duties. The Code seeks to require PAOs to avoid any conflict of interest or potential conflict of interest in the performance of their duties, and provide some principles and guidelines on how to handle any such conflict arising between their public duties and private interests. While these principles are set out in the Code, it is, of course, impossible to provide an exhaustive list of all the specific circumstances or details. PAOs themselves will strictly observe the standards of personal conduct and integrity, and will make their own judgments having regard to individual circumstances. If necessary, they will make a report to the Chief Executive, who will then give an instruction.

(Mr Charles Peter MOK stood up)

PRESIDENT (in Cantonese): Mr Charles Peter MOK, which part of your supplementary question has not been answered?

MR CHARLES PETER MOK (in Cantonese): President, my supplementary question is very simple. Does the Chief Executive, just as we do, watch the person concerned "squeeze toothpaste out of a tube" every day? In other words, did the Chief Executive know about this beforehand?

PRESIDENT (in Cantonese): Mr Charles Peter MOK, you have already pointed out the unanswered part of your supplementary question. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the specific circumstances of the case mentioned by Mr MOK, the Secretary for Justice has personally given her explanations. I have nothing to add.
MR DENNIS KWOK (in Cantonese): Secretary, it is stated in your main reply that every PAO is required to undergo extended checking. To put it simply, I believe the Government will ask a person whom it seeks to appoint whether there are any UBWs in his or her residence. If that person says there are UBWs in his or her residence but the Government ignores this problem, then the Government is covering up the problem; if that person said there were no UBWs in his or her residence but it was subsequently revealed that there were UBWs therein, then that person had covered up the problem and made an untruthful declaration to the Chief Executive. In the latter case, how will the Chief Executive punish that person, or is there any option of punishing that person? Obviously, that person did not give a full and clear account of the UBWs problem when he or she underwent extended checking. How will the bureau or the Chief Executive deal with this untruthful declaration issue?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Mr KWOK for his supplementary question. In my opinion, the inference drawn by Mr KWOK just now is based on some circumstances imagined by him in respect of the case in question. First, I do not think it is appropriate to comment on and discuss individual cases. Second, under the extended checking system, there are established procedures including requiring the subject being checked to provide relevant information, conducting interviews, consulting referees and supervisors, and inspecting relevant records.

Under the extended checking system, the Police are responsible for making specific assessments through the aforesaid arrangements, and will ask other law enforcement agencies for information when necessary. Therefore, I am not in a position to make comments regarding the specific arrangements of the extended checking system or whether certain questions will be asked in the process. As I explained just now, confidentiality is vital to the implementation of the extended checking system, for the system itself is based on trust and cooperation of all the parties involved.

(Mr Dennis KWOK stood up)
PRESIDENT (in Cantonese): Mr Dennis KWOK, which part of your supplementary question has not been answered?

MR DENNIS KWOK (in Cantonese): Are there any consequences if a person fails to make a truthful disclosure?

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, in addition to setting out some principles on preventing conflicts of interest or potential conflicts of interest, the Code also provides that in the event of any allegation of breach of duty or the provisions in the Code by a PAO, the Chief Executive after due process will decide whether the alleged breach is established and, if so, the appropriate way of handling it.

MS STARRY LEE (in Cantonese): President, the UBWs fiasco of the Secretary for Justice has become a political bomb. The explosion of this bomb, which started on the first day of the term of office of the Secretary for Justice, has yet to finish. It has harmed the Secretary for Justice as well as the SAR Government. The severity of the harm depends on the subsequent efforts of various parties.

    President, this situation has really caused me a great deal of heartache. In view of the development of the incident so far, there are many things about it that are really unfathomable. First, how come the Secretary for Justice had not properly examined and dealt with the UBWs in her residence before she took office? Second, how come the Government’s integrity checking failed to uncover the UBWs in her residence?

PRESIDENT (in Cantonese): Ms Starry LEE, please raise your supplementary question.
MS STARRY LEE (in Cantonese): I now raise my supplementary question. We must get to the bottom of this issue. Are there any omissions in what the SAR Government calls a very stringent system of integrity checking for principal officials? The problem of UBWs has become "a political killer" in that it has harmed many political figures or even ended their political lives. In this incident, integrity checking was clearly unable to uncover the UBWs in the residence of the Secretary for Justice. After this incident, has the Government conducted a review of integrity checking? Does the Government consider that there were omissions in the integrity checks conducted in the past, thus resulting in the community, the Secretary for Justice and the Government having to face this bomb this time?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Ms LEE for her supplementary question. As I said just now, extended checking is conducted before the appointment of a PAO, and this mechanism, in terms of arrangements and operation, is largely the same as that applicable to the extended checking required for employing civil servants or appointing civil servants to certain posts. The extended checking system was generally effective in the past. This is a fact. Of course, I believe that after certain circumstances have arisen, the Government will definitely gain experience and review the arrangements or other details of the system.

(Ms Starry LEE stood up)

PRESIDENT (in Cantonese): Ms Starry LEE, which part of your supplementary question has not been answered?

MS STARRY LEE (in Cantonese): The Secretary has not answered whether he has kicked off a review after this incident. Secretary, will the authorities carry out a review?

PRESIDENT (in Cantonese): Secretary, do you have anything to add?
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the extended checking system is operated through the Hong Kong Police Force. The extended checking for civil servants is under the purview of the Civil Service Bureau, whereas the extended checking for PAOs is under the purview of the Chief Executive's Office.

As I said just now, the Government will definitely learn from experience and review the circumstances to see what needs to be improved or addressed, as far as any system is concerned.

MR ALVIN YEUNG (in Cantonese): President, the Secretary indicated in his reply just now that integrity checking is based on cooperation and trust of the subject being checked. Evidently, given the occurrence of this incident, does this mean that someone is untrustworthy or uncooperative?

President, what I want to ask is: Given the concerns expressed by Members today about a major loophole in the integrity checking system, will the Secretary request the SAR Government to study how to perfect the system in the future or even consider making public certain relevant and important information, so that Members will be able to monitor future accountability officials in the Legislative Council?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I thank Mr YEUNG for his supplementary question.

First of all, as it is not appropriate for us to comment on or discuss the specific details and circumstances of a particular case, nor are we in a position to do so, it is not appropriate to draw certain inferences or conclusions in respect of the case. However, under the extended checking system, there are established procedures including soliciting relevant information, conducting interviews, consulting relevant persons and inspecting relevant records. In other words, the Government has already put in place relevant procedures and processes for the purpose of completing the necessary assessments.

In fact, the system also requires the cooperation and trust of the parties involved, who include not only the subject being checked but also the operator of the system. When we have yet to grasp the circumstances, or when we are not
in a position to discuss the circumstances in detail, it is not appropriate for us to
draw the conclusion that something has gone wrong. It is like a medical
examination; we may undergo a medical examination to see if we have any health
problem, but the completion of the medical examination does not mean that we
have no health problem. What is most important is that having been operated
for so long in the past, the extended checking system has proved to be generally
reliable. If we find that there is something wrong with the system, or after we
have gained experience from certain circumstances, we will definitely conduct a
review to explore room for further improvement. That said, our judgments and
follow-up actions must be based on the actual circumstances and specifics
grasped by us.

MR JEREMY TAM (in Cantonese): President, actually this is not the first time
a Member has raised a question about whether integrity checking should include
checking if there are any UBWs in the properties of the persons concerned.

In the oral question session of the Council meeting held on 11 July 2012,
Mr James TO raised a question about the UBWs problem of former Chief
Executive LEUNG Chun-ying, inquiring whether the authorities would include
UBWs-related checking in the system of integrity checking for the Chief Executive
and accountability officials. This being the case, the authorities could not say
that they were not aware of this issue until today, because a Member already
raised a question about this issue at a Council meeting in 2012.

Now, I would like to get one thing straight. Given that a Member already
raised at a Council meeting in 2012 the above question, to which the authorities
gave a reply, will the authorities inquire of the persons concerned whether there
are any UBWs in their properties when conducting integrity checks? This does
not involve the issue of privacy or confidentiality. I am just asking the Secretary
whether the authorities will inquire of the persons concerned whether there are
any UBWs in their properties when conducting integrity checks.

(Mr CHAN Chi-chuen stood up)

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, what is your point?
MR CHAN CHI-CHUEN (in Cantonese): President, a point of order. Please do a headcount.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

MR CHAN CHI-CHUEN (in Cantonese): Down with "Teresa UBWs"!

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, please stop yelling.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Secretary, please reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): I thank Mr TAM for his supplementary question. I am really sorry and I hope Mr TAM can understand that in order to ensure the effective operation of the extended checking system, the relevant case content certainly cannot be disclosed, and the specific arrangements of the system (including such details as what questions will be asked and what questions will not be asked) must also be kept confidential. Nonetheless, as far as the system is concerned, we will review the processes of extended checking in the light of experience.

(Mr Jeremy TAM stood up)

PRESIDENT (in Cantonese): Mr Jeremy TAM, which part of your supplementary question has not been answered?

(Mr Jeremy TAM voiced his opinion in his seat)

PRESIDENT (in Cantonese): This is not a debate session.
MR JEREMY TAM (in Cantonese): I am not seeking a debate.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR JEREMY TAM (in Cantonese): I am asking the Secretary whether integrity checking includes that particular item. I am not asking the Secretary to disclose the content of the relevant dialogue.

PRESIDENT (in Cantonese): The Secretary has given a clear reply. Last oral question.

Possible role conflicts arising from the exercise of the various functions by the Secretary for Justice

6. MR KENNETH LEUNG (in Cantonese): President, Secretary for Justice, first of all, welcome to the Legislative Council. You are finally here to answer Members' questions after 18 days in office.

PRESIDENT (in Cantonese): Mr Kenneth LEUNG, please raise the main question.

MR KENNETH LEUNG (in Cantonese): President, do not be anxious. I have finished with the greetings.

The Secretary for Justice ("SJ") is a principal official under the Political Appointment System of the Hong Kong Special Administrative Region Government. The functions of SJ include controlling law drafting and criminal prosecutions, soliciting support from this Council and the public for government policies and proposals, etc. In this connection, will the Government inform this Council:

(1) of the respective mechanisms currently in place for ensuring that the work of the Department of Justice ("DoJ") relating to criminal
prosecutions is free from any interference and for handling the situation that role conflicts have arisen between the exercise of criminal prosecution function by SJ and her exercise of other functions or her personal affairs;

(2) of the number of times, in each of the past five years, for which the exercise of a function of SJ was transferred to the Solicitor General, the Director of Public Prosecutions or other law officers of DoJ in order to avoid any perceived or real role conflicts; among them, the number of times for which the work relating to criminal prosecutions was involved; and

(3) given that the Special Committee on Constitutional Affairs and Human Rights of the Hong Kong Bar Association and a former Executive Council Member have separately proposed earlier on that SJ shall vest all decisions relating to criminal prosecutions in the Director of Public Prosecutions, to be made independently and free from any interference, to avoid the public perception that certain criminal prosecution decisions might have been affected by SJ's exercise of other functions, whether the Government will consider that proposal; if not, of the justifications for that?

SECRETARY FOR JUSTICE (in Cantonese): President, the maintenance of public support and confidence in the criminal justice system is crucial for upholding the rule of law. To achieve this, it is important that prosecutorial independence should be ensured. In this regard, it is enshrined under Article 63 of the Basic Law that the Department of Justice ("DoJ") of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference. As head of DoJ, the Secretary for Justice has a constitutional duty and responsibility to make decisions and supervise conduct of criminal prosecutions.

Decisions to prosecute or not, as the case may be, must be based on an objective and professional assessment of the available evidence and the law and be in accordance with the published Prosecution Code. The prosecution will consider whether there is sufficient evidence to prosecute, and the test is whether the evidence is sufficient to demonstrate a reasonable prospect of conviction; if there is sufficient evidence to prosecute, the prosecution will then consider
whether it is in the public interest to do so. The legal discussions within DoJ are always conducted with professionalism, free from political considerations, and, most importantly, in confidence. Some decisions are hard to make, but DoJ is duty bound to make decisions that are legally correct and free from any interference, difficult or unpalatable though they may be.

In respect of Mr Kenneth LEUNG's three questions regarding how to ensure the independence of the work of DoJ relating to criminal prosecution, the consolidated response of DoJ is as follows:

There are appropriate checks and accountability mechanisms in place to ensure free and independent control of prosecutions in Hong Kong. In general, in circumstances where there is any actual or potential conflict of interest on his or her part, the Secretary for Justice, after satisfying himself or herself that the Director of Public Prosecutions ("DPP") has no connection with any of the persons or events concerned, will delegate to DPP the authority to handle the matter (including the consideration of and decision as to whether any prosecution action is warranted). Moreover, should it transpire subsequently that the handling of any such legal proceedings or prosecutorial matters may give rise to any conflict of interest, actual or potential on the part of the legal officers who had been so delegated, the delegation given will be reviewed. Depending upon the facts of each individual case, independent advice from outside counsel may also be sought. This practice has been consistently applied.

In a number of cases in recent years where there was such delegation (or a withdrawal of such delegation), the Administration would, as appropriate in the circumstances of the case, issue statements as to the arrangement at appropriate juncture. According to our records, in the five-year period from 2013 to 2017, the number of occasions on which the former Secretary for Justice delegated the exercise of certain functions to other legal officers within DoJ regarding cases with actual or potential conflict of interest, are 10 times, 11 times, 4 times, 5 times and 9 times respectively. Apart from one occasion each in 2013, 2015 and 2016, and two occasions in 2017 involving civil proceedings, all other delegations related to criminal prosecution work.

The above mentioned system has worked well in the past and will continue to do so. The making of prosecutorial decisions is governed by the Prosecution Code, free from influence from any actual or potential conflict of interest, and
where charges are laid, the cases are considered by the courts. DoJ would continue to review and enhance the declaration and delegation systems in DoJ in respect of actual or potential conflict of interest.

Notwithstanding the above, we are aware that there are suggestions that the Secretary for Justice should delegate all prosecutorial decisions to DPP, so as to ensure the independence of such decisions. As I have pointed out just now, decisions to prosecute or not, as the case may be, must be based on an objective and professional assessment of the available evidence and the law and be in accordance with the published Prosecution Code. In making the decisions, it must be free from any political considerations. Currently, the independence of prosecutorial decisions is sufficiently safeguarded by Article 63 of the Basic Law.

Currently no review has been conducted, nor is there any timetable, on the issue of the Secretary for Justice vesting all decisions relating to criminal prosecutions in DPP. However, DoJ is willing to listen to views that this Council, the legal professional bodies and the public may have. Any future consideration of the matter will be subject to the key principles set out above. In any event, all colleagues within DoJ (including DPP, officers of the Prosecutions Division and myself) will remain conscious of the importance of prosecutorial independence, a cardinal principle that is stressed in the Prosecution Code. All prosecutorial decisions will continue to be made independently without political or other improper or undue influence.

MR KENNETH LEUNG (in Cantonese): President, I am disappointed with the overall reply of the Secretary for Justice, especially paragraph 4, which stated that the Secretary for Justice will delegate to DPP the authority to handle the matter "[d]epending upon the facts of each individual case". President, for cases involving Members of the Executive Council or even properties A, B or C owned by the Secretary for Justice, will the Secretary for Justice also have to consider delegating his or her authority depending upon the facts of each individual case? This is my question. In my view, the Secretary for Justice should be bound by a standing order when handling cases involving Members of the Executive Council or government officials instead of delegating his or her authority on a case-by-case basis. President, I would like the Secretary for Justice to answer this question.
SECRETARY FOR JUSTICE (in Cantonese): This delegation mechanism is in place to ensure that the Secretary for Justice can, through delegation, avoid handling any cases with potential or actual conflict of interest, including considering civil or criminal legal advice or instigating civil or criminal proceedings for these cases. The Secretary for Justice will therefore delegate his or her authority in special circumstances.

As I just said in the main reply, the Administration may issue statements for cases requiring such delegation. However, in some cases, the issuance of statements may not come with the delegation as the Administration may not consider it the right time to issue a statement or may think that there is no need to do so.

MR KENNETH LEUNG (in Cantonese): The Secretary for Justice has not answered my supplementary question. If the persons involved are …

PRESIDENT (in Cantonese): Mr Kenneth LEUNG, you only have to point out which part of your supplementary question has not been answered.

MR KENNETH LEUNG (in Cantonese): … she has not answered why, instead of relying on the delegation of authority, there is no standing order in place to deal with cases involving the Secretary for Justice (e.g. cases involving her own properties). In other words, whenever there are cases involving the Secretary for Justice, they should be referred to DPP automatically. This is my question.

PRESIDENT (in Cantonese): You have already pointed out which part of your supplementary question was not answered. Please sit down. Secretary for Justice, do you have anything to add?

SECRETARY FOR JUSTICE (in Cantonese): I would like to add a few words. Regarding my property issues, as I said earlier, I have delegated to the Law Officer (Civil Law) and DPP the authority to handle them. As for the Member's question on whether there should be a standard mechanism in place to set a firewall for all cases involving the Secretary for Justice, we may consider how to
put in place this mechanism, but our usual practice is to deal with these cases on a case-by-case basis. As I said just now, we will continue to review and enhance our systems. I thank the Member for his suggestion.

**MR KWONG CHUN-YU** (in Cantonese): President, Secretary for Justice, today's newspapers have reported in words and photographs that you, Secretary for Justice Teresa CHENG, have a music room, a wine cellar and a private cinema in the basement of your residence. But, surprisingly, you are not aware of the existence of such a wonderful basement. Secretary for Justice, you have been giving responses like "squeezing toothpaste out of a tube" over the past few days. You have unauthorized building works ("UBWs") in your residence as well as in your other properties. You are now nicknamed "Teresa UBWs" …

**PRESIDENT** (in Cantonese): Mr KWONG Chun-yu, please raise your supplementary question.

**MR KWONG CHUN-YU** (in Cantonese): President, take it easy. Secretary for Secretary, you have been giving responses like "squeezing toothpaste out of a tube" over the past few days and you have failed to address public concerns so far. Do you think that you are almost bankrupt of integrity and have become a burden to the SAR Government? My supplementary question is simple. I will only ask one question. Do you think you are still fit to remain in office as the Secretary for Justice, particularly you are not so upright? President, please ask her to answer this question.

**PRESIDENT** (in Cantonese): Mr KWONG Chun-yu, your supplementary question has digressed from the subject. According to Rule 26(4) of the Rules of Procedure ("RoP"), a Member shall not introduce matter which is not related to the original question or answer in his or her supplementary question.

**MR KWONG CHUN-YU** (in Cantonese): President, I have not digressed. The oral question of today is …
PRESIDENT (in Cantonese): Your supplementary question is not related to the main question. Please sit down.

(Mr KWONG Chun-yu continued to speak while remain standing)

PRESIDENT (in Cantonese): Mr KWONG Chun-yu, please sit down. Secretary for Justice, you do not have to answer but do you have anything to add in this connection?

SECRETARY FOR JUSTICE (in Cantonese): I have nothing to add.

(A number of Members spoke loudly)

(Mr KWONG Chun-yu called the President loudly)

PRESIDENT (in Cantonese): Mr KWONG Chun-yu, I have already explained to you that your supplementary question does not comply with RoP 26(4). Please sit down.

(Mr KWONG Chun-yu requested that his microphone be switched on)

PRESIDENT (in Cantonese): Mr KWONG Chun-yu, please sit down.

(Mr KWONG Chun-yu requested that his microphone be switched on)

PRESIDENT (in Cantonese): Mr KWONG Chun-yu, please sit down. If you do not sit down, I will regard your conduct as grossly disorderly.

(A number of Members spoke loudly in their seats)

(Mr James TO raised his hand in indication)

PRESIDENT (in Cantonese): Mr James TO, what is your point of order?
MR JAMES TO (in Cantonese): President, just now …

(Some Members requested the President to pause the timer)

MR JAMES TO (in Cantonese): It does not matter. I think the President will increase the question time at his discretion.

PRESIDENT (in Cantonese): Mr James TO, please raise your point of order.

MR JAMES TO (in Cantonese): President, my point of order is that Mr Kenneth LEUNG …

(A number of Members requested the President to pause the timer)

PRESIDENT (in Cantonese): I will take note of the question time. Mr James TO, please raise your point of order.

MR JAMES TO (in Cantonese): May Honourable colleagues please listen to me first. The main question from Mr Kenneth LEUNG is that the Secretary for Justice …

PRESIDENT (in Cantonese): Mr James TO, please raise your point of order.

MR JAMES TO (in Cantonese): Here is my point of order. Regarding the supplementary question just raised by Mr KWONG Chun-yu, if it is seen from a broader perspective, he may argue that as the Secretary for Justice has not well handled the delegation of authority and has conflict of interest, he thus asked if the Secretary for Justice considered that she should step down. President, this supplementary question is therefore related to the main question.
MR KWONG CHUN-YU (in Cantonese): President, a point of order.

PRESIDENT (in Cantonese): Mr KWONG Chun-yu, what is your point of order?

MR KWONG CHUN-YU (in Cantonese): President, my supplementary question has not digressed from the subject. Moreover, I only asked my supplementary question with the President's permission. The Secretary for Justice only said, "I have nothing to add." President, my supplementary question is very clear: Teresa CHENG, will you step down?

PRESIDENT (in Cantonese): This is not a point of order. The Secretary for Justice has already indicated that she has nothing to add.

DR KWOK KA-KI (in Cantonese): President, it is of vital importance that criminal prosecutions must be handled in a fair and impartial manner. In fact, the former Secretary for Justice had already been queried by the public and all Legislative Council Members in respect of criminal prosecution. Worse still, though the incumbent Secretary for Justice has taken office for less than a month, the public have seen her as a liar without integrity and breaking the law knowingly.

As she said just now, in criminal prosecutions, it is crucial for fairness to be done and for the Secretary for Justice to maintain public confidence in his or her decisions. Yet, no one in Hong Kong will now have trust in her integrity. She may actually be the greatest obstacle impeding the judicial independence of Hong Kong, affecting the legal system and the future prosecutorial decisions. In this connection, does she think that her most responsible decision right now will be to refrain from making prosecutorial decisions or even to resign as the Secretary for Justice, so as to allow the rule of law and the legal system of Hong Kong to be back on the right track?
SECRETARY FOR JUSTICE (in Cantonese): President, I thank the Member for his supplementary question. On the conducting or controlling of criminal prosecutions, in order to ensure fairness and impartiality, as well as maintaining public confidence, we must not rely on a single person but the entire system. In conducting criminal prosecution, the relevant decision and matters must be dealt with according to the law, evidence and the Prosecution Code. It is important for the relevant issues to be handled systematically in an evidence- and law-based approach. We must understand that the crux of the matter is not whether the public have confidence in a particular person; but whether the public have confidence in the system and the capabilities of the authorities to take enforcement actions according to the law. I will definitely act in accordance with the law when dealing with criminal prosecutions.

(Dr KWOK Ka-ki stood up)

PRESIDENT (in Cantonese): Dr KWOK Ka-ki, which part of your supplementary question has not been answered?

DR KWOK KA-KI (in Cantonese): She has not answered my question. My supplementary question is clear: If the Secretary for Justice who lies every day has undermined public confidence in the work of the authorities relating to prosecutions (including criminal prosecutions) and has become the root of the problem, is she still fit for the position to take charge of key prosecutorial decisions? The influence of individuals is no less than that of the system. A person with no integrity will just ruin the system.

PRESIDENT (in Cantonese): You have already pointed out which part of your supplementary question was not answered. Please sit down. Secretary for Justice, do you have anything to add?

SECRETARY FOR JUSTICE (in Cantonese): I do not accept that I am a person with no integrity. Moreover, our system is not something that can be changed by a single person. Should there be legal needs and there are evidence
conforming to my aforesaid major principles, the Secretary for Justice will not take political factors into consideration and will make his or her decisions based on evidence, laws, the Prosecution Code and public interest without giving regard to irrelevant factors.

MR LAM CHEUK-TING (in Cantonese): President, the main question of today is about how the Secretary for Justice should avoid perceived or real role conflicts. The Secretary for Justice has also talked about the maintenance of public support and confidence in the criminal justice system in her main reply. President, when it comes to public support and confidence in the current system, the key now lies in the row over the UBWs of the Secretary for Justice. I would like to give the Secretary for Justice an opportunity to respond to an important question so as to avoid public confidence in the system being further undermined.

My supplementary question is: During the transaction process of the Secretary for Justice's property at House 4, Villa De Mer, was there any lawyer or estate agent informing or reminding her, whether in verbal, written or other means, that there might be UBWs or there were actually UBWs in the property or there were, in her words, "alterations without record of registration"?

PRESIDENT (in Cantonese): I have already reminded Members that, according to RoP 26(4), a Member shall not introduce matter which is not related to the original question or answer in his or her supplementary question.

(Mr LAM Cheuk-ting spoke while standing)

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting, please sit down. Secretary for Justice, are you willing to answer this question?

MR LAM CHEUK-TING (in Cantonese): The Secretary for Justice only has to answer "yes" or "no".
SECRETARY FOR JUSTICE (in Cantonese): Perhaps let me add a few words. I might not have given detailed explanation just now. As regards the "perceived role conflicts" just mentioned by the Member, I will take it as the "potential or actual conflict[s] of interest". Anyway, I just want to add a few words. Firstly, concerning my property issues, as I said earlier, I have delegated to the Law Officer (Civil Law) and DPP the authority to handle them so as to avoid an impression of conflict of interest or role conflict. Secondly, regarding the property issues of my husband in the same villa, I have also delegated to the Law Officer (Civil Law) and DPP the authority to deal with them. Thirdly, in respect of the civil or criminal cases involving my husband and his company, I have delegated to the relevant law officers the authority to deal with matters on legal advice, and so on. These are the simple points that I want to add.

(Mr LAM Cheuk-ting stood up)

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting, the Secretary for Justice has already answered your supplementary question. Please sit down.

(Mr LAM Cheuk-ting spoke loudly)

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting, your supplementary question did not comply with RoP. However, I still asked the Secretary for Justice if she would answer it and she gave her answer.

MR LAM CHEUK-TING (in Cantonese): President, may I ask a follow-up question?

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting, you are not allowed to do so as your supplementary question did not comply with RoP.

MR CHAN CHI-CHUEN (in Cantonese): President, this morning, the numbers of police cars, police officers, mills barriers and security guards outside the Legislative Complex are even greater than that during LEUNG Chun-ying's era. The Secretary for Justice stated in the main reply that "in circumstances where
there is any actual or potential conflict of interest on his or her part, the Secretary for Justice … will delegate to DPP the authority to handle the matter", and she has just repeated this point for a few times. However, she has not told us whether the Secretary for Justice will have any role in these matters after making such delegation.

President, my supplementary question is very simple. If DPP instituted a prosecution, would the mechanism require the Secretary for Justice to be suspended from duties or even to resign? If she is the one involved in the case, what will she do?

SECRETARY FOR JUSTICE (in Cantonese): The Secretary for Justice has a wide range of duties. Should there be any legal advice relating to me, such advice will not be handed over to me. The Secretary for Justice, however, still has to deal with other tasks in order to perform his/her other constitutional duties.

(Mr CHAN Chi-chuen stood up)

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, which part of your supplementary question has not been answered?

MR CHAN CHI-CHUEN (in Cantonese): President, she has not answered my supplementary question. My question is: If DPP instituted a prosecution, would the mechanism require the Secretary for Justice to be suspended from duties or even to resign?

SECRETARY FOR JUSTICE (in Cantonese): President, the answer to this question depends on the prosecution to be instituted. Under normal circumstances, if there is a division of work, the Secretary for Justice—I am not talking about myself—should continue to deal with his or her other duties. Here, I am repeating the aforesaid role issue.

MR CHAN CHI-CHUEN (in Cantonese): President, I am not talking about other duties. If DPP instituted …
PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, you have already pointed out which part of your supplementary question was not answered and the Secretary for Justice has given her answer.

(Mr CHAN Chi-chuen spoke loudly while standing)

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, please sit down.

(Mr CHAN Chi-chuen continued to speak loudly while standing)

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, please sit down.

MR CHAN CHI-CHUEN (in Cantonese): Why did you show partiality for the Secretary for Justice?

PRESIDENT (in Cantonese): I did not. Mr CHAN Chi-chuen, please sit down. Secretary for Justice, do you have anything to add?

(Mr CHAN Chi-chuen spoke loudly while remained standing)

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, if you continue to speak loudly without my permission, I will regard your conduct as grossly disorderly.

MR JAMES TO (in Cantonese): Why did you show partiality for the Secretary for Justice? You showed partiality for the Secretary for Justice!

PRESIDENT (in Cantonese): Secretary for Justice, do you have anything to add?

SECRETARY FOR JUSTICE (in Cantonese): President, I have nothing to add.

WRITTEN ANSWERS TO QUESTIONS

Ticketing arrangements for Hong Kong people taking the high-speed trains on the Mainland

7. MR YIU SI-WING (in Chinese): President, it has been reported that the Mainland railway authorities have enhanced and adjusted the high-speed rail ticketing system and the automatic ticketing machines ("ATMs") installed at the 200-odd stations along the high-speed rail routes, thus enabling Hong Kong and Macao residents to buy and pick up tickets by swiping their Hong Kong and Macao Residents Entry and Exit Permits (commonly known as "home return cards") through the ATMs, and obviating the need for them to spend time on queuing up for counter services for ticketing matters. Some Hong Kong residents have relayed that the ticketing system's performance is unstable, and therefore they often fail to buy and pick up tickets through the ATMs. In this connection, will the Government inform this Council:

(1) whether it will discuss with the Mainland railway authorities ways to ensure that, upon the commissioning of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") in the third quarter of this year, ATMs compatible with home return cards will be provided in all of the stations where XRL trains departing from the West Kowloon Station will make terminal and intermediate stops; if so, of the details; if not, the reasons for that;

(2) whether it knows the number of high-speed rail stations which are currently provided with ATMs compatible with home return cards as well as the name of those stations; whether the Mainland railway authorities will install more of such machines; if so, of the number, and set out the installation timetable by name of station;

(3) given that at present, Mainland residents may take the high-speed trains without holding physical tickets, by directly tapping the ticket gates with their second-generation resident identity cards, whether the Government has discussed with the Mainland railway authorities the feasibility of taking the high-speed trains by tapping the ticket gates with home return cards; and
(4) whether it will set up a joint working group with the Mainland railway authorities to discuss ways to upgrade the functions of the ticketing system of the high-speed rail and enhance its stability, so as to make it more convenient for Hong Kong residents to buy tickets; if so, of the details (including the work plan and timetable); if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, my consolidated reply to Mr YIU Si-wing's question is as follows:

The Hong Kong Special Administrative Region ("HKSAR") Government and the MTR Corporation Limited ("MTRCL") have formed numerous working groups with the Mainland high-speed rail operator to discuss and examine operational matters that need to be coordinated with the Mainland side, including ticketing arrangements, for the Guangzhou-Shenzhen-Hong Kong Express Rail Link. Such work has been ongoing.

According to the present plan, passengers may, by producing their Hong Kong and Macao Residents Entry and Exit Permits (i.e. Home Visit Permits), buy and collect tickets for high-speed trains that start or terminate at West Kowloon Station through the ticketing system of Hong Kong, including ticketing website, ticketing hotline, ticketing counters and automatic ticket vending and issuing machines at West Kowloon Station, as well as designated agencies in Hong Kong.

As to how Hong Kong residents may buy or collect tickets at West Kowloon Station for high-speed trains that start and terminate at Mainland stations, and buy and collect tickets for high-speed trains at Mainland stations, the HKSAR Government and MTRCL are actively discussing with the Mainland high-speed rail operator on the relevant arrangements. According to the latest initial understanding from the Mainland high-speed rail operator, a number of high-speed rail stations on the Mainland are currently adjusting their ticketing systems and automatic vending and issuing equipment so as to facilitate the travel of Hong Kong and Macao residents on the Mainland by means of high-speed rail. The operator has also advised that automatic ticket vending and issuing service for Hong Kong and Macao residents would be progressively extended to more
stations. The HKSAR Government will continue to liaise closely with the relevant authorities on this matter, and strive for more facilitation arrangements for passengers.

When the above ticketing arrangements have actual progress, the HKSAR Government and MTRCL will make announcements in a timely manner.

Law enforcement actions against unlicensed restaurants

8. **MR CHEUNG KWOK-KWAN (in Chinese):** President, under the law, restaurant operators are required to obtain a restaurant licence ("full licence") issued by the Director of Food and Environmental Hygiene before commencement of business. They may apply for a provisional licence at the time of or after submitting an application for a full licence. Where the applicants have proved that the various basic requirements have been met, they may be issued a provisional licence with a validity period of six months so that their restaurants may open for business pending the issuance of a full licence. It is learnt that as the conditions for issuing a provisional licence are more lenient than those for a full licence, some operators of restaurants which fail to comply with the latter have made successive new applications for a restaurant licence under different names of operators, so that their restaurants may open for business continuously under a provisional licence ("Loophole 1"). Moreover, even if the Food and Environmental Hygiene Department ("FEHD") has obtained from the court a closure order in respect of the premises of an unlicensed restaurant, the restaurant operator may nullify the closure order simply by changing the name of the operator. As a result, FEHD is unable to eradicate the restaurant through applying for a closure order, and it can only conduct regular inspections on and institute prosecutions against that restaurant ("Loophole 2"). It has been reported that a restaurant, which has been operating for two years but has never been issued with a full licence, was granted a liquor licence while it was holding a provisional licence. The restaurant has continued to operate after the expiry of its provisional licence and its operator has thus been prosecuted by FEHD for nearly 20 times for operating an unlicensed restaurant. Yet, by taking advantage of the aforesaid loopholes, the restaurant has succeeded in avoiding eradication and continued to operate till now. In this connection, will the Government inform this Council:
(1) of the number of restaurants in the territory which operated under a provisional licence as at 31 December last year; the number of restaurants in respect of which multiple applications had been made under different names for a full licence in respect of a restaurant operating in the same premises, and among such restaurants, the number of those in respect of which the earliest application for a full licence was submitted more than two years ago;

(2) of the number of prosecutions instituted by FEHD against the operators of unlicensed restaurants in the past five years; among such prosecutions, the highest number of prosecutions instituted against the operator(s) of restaurant(s) operating in the same premises; (i) a breakdown of the number of such restaurants by the number of times for which their operators were prosecuted and, (ii) among such restaurants, the number of those which had been eradicated (set out in the table below);

<table>
<thead>
<tr>
<th>Number of prosecutions instituted</th>
<th>(i)</th>
<th>(ii)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Once</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Two to five times</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Six to 10 times</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11 to 15 times</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16 to 20 times</td>
<td></td>
<td></td>
</tr>
<tr>
<td>21 times or more</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(3) whether FEHD has formulated guidelines stipulating that unlicensed restaurants operating in the same premises should be eradicated after the operators concerned have been prosecuted by summons for a certain number of times in total; if so, of the criteria adopted by FEHD for determining such a number; if not, whether FEHD will consider formulating such guidelines;

(4) of the number of liquor licence applications made in the past three years by operators of restaurants issued with a provisional licence; whether it has plans to review the provisions under which such restaurants may be issued a liquor licence;
(5) of the new measures put in place to plug the two aforesaid loopholes; and

(6) whether it will examine raising the penalties for operating an unlicensed restaurant (e.g. increasing the maximum level of the fine), so as to avoid the fine being regarded by restaurant operators as part of their operating costs and hence being unable to achieve any deterrent effect?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, under the Food Business Regulation (Cap. 132X), restaurants must obtain appropriate licence(s), such as the General Restaurant Licence, Light Refreshment Restaurant Licence and Marine Restaurant Licence, before commencement of business. Any person who operates a food business without a licence commits an offence and is liable on conviction to a maximum fine of $50,000 and imprisonment for six months, and an additional daily fine of $900 should the offence persist.

The Food and Environmental Hygiene Department ("FEHD") is concerned about the operation of unlicensed restaurants. Apart from carrying out routine inspections and enforcement actions against the unlicensed premises, FEHD also takes blitz prosecution actions or makes arrests from time to time. It will also increase the frequency of prosecution where necessary. Besides, FEHD may consider applying to the court for a closure order under section 128B of the Public Health and Municipal Services Ordinance (Cap. 132) to close an unlicensed restaurant.

My reply to the various parts of the question is as follows:

(1) As at 31 December 2017, there were 981 restaurants operating with a provisional licence in Hong Kong. As these are commercial operations, the operator of the same premises may change from time to time for various reasons. Therefore, applications for transfer of a restaurant licence or new applications for a restaurant licence may be received in respect of the same premises at different times. FEHD does not keep information on such applications. According to our record, none of these 981 restaurants operating with a provisional licence had its application for a full licence submitted for more than two years ago. It is mentioned in the question that a restaurant, which has not been issued with a full licence, has been operating for
two years and continues to operate after the expiry of its provisional licence. FEHD has enhanced prosecution actions and instituted 21 prosecutions against the operator concerned for operating a restaurant without a licence. The operator finally chose to withdraw his application for a restaurant licence, and a new application was submitted under the name of another operator. After receiving the new application, FEHD requested, in accordance with the existing licensing policy, the applicant to submit documentary proof to demonstrate that he/she has no business connection with the former licensee or his/her business partner/proprietor, and provide proof as to when and how he/she would fully comply with the licensing requirements imposed by the relevant departments. FEHD also made clear to the applicant that if the premises continued to operate without a licence, it would step up prosecution actions, which include applying to the court for a closure order to close the premises. During its recent inspections, FEHD found that the restaurant was temporarily closed for renovation. The licence application in respect of the premises is still under consideration and being processed by the department.

(2) The number of prosecutions instituted against unlicensed restaurants by FEHD over the past five years is set out in the table below:

<table>
<thead>
<tr>
<th>Year</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of prosecutions against unlicensed restaurants</td>
<td>3 085</td>
<td>2 808</td>
<td>2 343</td>
<td>1 711</td>
<td>1 604</td>
</tr>
</tbody>
</table>

FEHD does not maintain the breakdowns of the number of prosecutions instituted against unlicensed restaurant operators and, amongst them, the number of unlicensed restaurants which have been eradicated.

(3) At present, FEHD takes out prosecution against any person operating an unlicensed food premises in accordance with the Food Business Regulation. It will step up enforcement, which includes increasing the frequency of prosecution, arresting the offenders and seizing the articles involved, against food premises which persistently operate without a licence. It may also apply to the court for a closure order under section 128B of the Public Health and Municipal Services
Ordinance to close an unlicensed food premises. After a closure order is made by the court, FEHD will execute the order to close the premises in question and publicize through the media details of the unlicensed food premises thus closed.

The prevailing guidelines of FEHD do not determine the enforcement arrangements according to the number of prosecutions instituted. The priorities and types of enforcement actions to be taken against unlicensed food premises are determined by a host of factors including the hazards arising from their operation to environmental hygiene and public health (for examples, food poisoning cases, foodborne diseases or food incidents are involved), whether the operator has submitted an application for a food business licence, whether the premises in respect of the application can satisfy the essential licensing requirements (for examples, if there are flimsy structures, lack of safe drinking water supply or absence of sewage system), or whether the application cannot be further processed due to outright objection raised by relevant departments. Food premises which have submitted an application for a food business licence but operate without a licence will still be prosecuted under the Food Business Regulation. Where necessary, FEHD will strengthen its enforcement actions, such as increasing the frequency of prosecutions/arrests and considering an application for a closure order from the court. Priority will be accorded to cases in which the operation of the unlicensed food premises is hazardous to environmental hygiene or public health, and the applicant could not provide reasonable explanations for failure to comply with the licensing requirements within a specified time.

(4) Pursuant to regulation 17(2) of the Dutiable Commodities (Liquor) Regulations (Cap. 109B), the Liquor Licensing Board ("LLB") shall not grant a liquor licence unless it is satisfied that: (1) the applicant is a fit and proper person to hold the licence; (2) the premises to which the application relates are suitable for selling or supplying intoxicating liquor, having regard to the location and structure of the premises and the fire safety and hygienic conditions of the premises; and (3) the grant of the licence is not contrary to the public interest. In general, a restaurant licence (provisional or full) will be issued to the premises subject to the compliance with the requirements on building structure, fire safety and hygiene standards imposed by a
restaurant licence. In other words, if the premises applying for a liquor licence have been issued with a restaurant licence (provisional or full), it will normally be accepted as having fulfilled one of the relevant conditions for granting a liquor licence.

To facilitate business operations, under the existing policy, LLB accepts and considers applications for liquor licences from premises which have been issued with or are applying for a restaurant licence (provisional or full) issued by FEHD. Nevertheless, LLB will only issue a liquor licence to an applicant after the premises concerned have been issued with a restaurant licence (provisional or full). According to the existing policy, if the premises have obtained a provisional restaurant licence, LLB will first issue a liquor licence with an expiry date being the same as the provisional restaurant licence. Subject to further issue of a valid restaurant licence in respect of the premises, LLB will issue a liquor licence for the remaining approved period of the liquor licence.

FEHD does not maintain information for the past three years concerning restaurants issued with a provisional restaurant licence that applied for a liquor licence.

LLB will review the relevant criteria/guidelines on a regular basis and make amendments when required, so as to ensure that its work keeps pace with the times, prevailing circumstances and operating situation of the trade.

As mentioned in part (3), FEHD has established guidelines for eradication of food premises which persistently operate without a licence and are causing serious environmental hygiene nuisances or harm to public health. The corresponding measures include application for a closure order from the court.

(5) Regarding the comment that the conditions for issuing a provisional licence are lenient, under section 33C of the Food Business Regulation (Cap. 132X), food premises shall meet all essential health, ventilation, building and fire safety requirements for the issue of provisional licences imposed by the government departments concerned, and report their compliance with submission of certificates of compliance by authorized professionals before FEHD
issues a provisional restaurant licence. This allows the applicants sufficient time to complete the remaining works for meeting the whole set of requirements for a full licence. This licensing policy is formulated after discussion with the trade to facilitate business operation.

To prevent applicants from abusing the provisional licensing system through repeated applications for a provisional licence by different operators, whereby a restaurant may continue to operate in the same premises without obtaining a full licence, under the existing licensing policy, FEHD will not process any new application for provisional food business licence if it is submitted by the former licensee or his/her business partner/proprietor where the last provisional licence has lapsed and a full licence has not been issued to the former licensee within the past 12 months preceding the date of new licence application for the same nature of business in respect of the same premises. Moreover, upon receipt of a new application for provisional licence by the same premises for the same nature of business, FEHD will request the applicant to submit documentary proof (for examples, tenancy agreement of the food premises, business registration certificate, company documents, etc.) in seven days to demonstrate that he/she has no business connection with the former licensee or his/her business partner/business proprietor before accepting the application. If the application is accepted, a non-standard licensing requirement will be imposed on the provisional licence, requiring the applicant to make a statutory declaration under the Oaths and Declarations Ordinance that he/she has no business connection with the former licensee or his/her business partner/business proprietor of the premises. By virtue of section 36(a) of the Crimes Ordinance, an applicant who knowingly and wilfully makes in a statutory declaration a statement which is false shall be guilty of an offence, and shall be liable on conviction to imprisonment for two years and to a fine. To enhance the deterrent effect, FEHD may consider refusing the issue of a new provisional licence or cancelling any such provisional licence issued. As mentioned in part (3) above, FEHD has established guidelines to eradicate unlicensed food premises which are in operation and causing hazards to environmental hygiene or public health. The control measures include stepping up enforcement actions against unlicensed food premises and applying to the court for a closure
order. With such measures and the above licensing policy in place, unlicensed restaurants cannot evade FEHD's enforcement actions through application for a new licence by a new operator.

(6) Currently, adequate power is conferred on FEHD by the law to deal with the operation of unlicensed food business. The maximum penalty for contravention of the legislation concerned bears sufficient deterrence. When the court hears a case in which an offender has been repeatedly involved in the operation of an unlicensed food business, FEHD will present to the court information about the offender's previous related convictions and the number of relevant complaints, so as to help the court mete out an appropriate sentence. According to our record, heavy penalties and imprisonment have been imposed for operating unlicensed food business.

FEHD will continue to closely monitor the operation of unlicensed food business and review the effectiveness of the enforcement strategies against unlicensed food premises from time to time. It will step up enforcement against irregularities as and when necessary.

Assistance and compensation for farmers affected by development plans

9. MR STEVEN HO (in Chinese): President, in recent years, the Government has resumed a number of private agricultural lands in the New Territories for implementing development plans. Quite a number of farmers have relayed to me that some owners of agricultural lands have, after learning that their lands have been brought into the scopes of development plans, tried to drive their farmers to move out of their lands before the commencement of freezing surveys by employing every means (e.g. substantially increasing the rents and shortening the tenancy periods), in the hope of receiving higher compensations. Although the Government has implemented rehabilitation schemes for farmers affected by development plans, the progress for agricultural land matching is slow. Furthermore, the Government has acquired agricultural lands from time to time for use as temporary work sites for development plans, but subsequently reverted to farmers the agricultural lands with surface soil so severely damaged that they are not suitable for farming, or did not revert the
lands to them at all, resulting in indefinite delay in the resumption of farming by farmers. In this connection, will the Government inform this Council:

(1) of (i) the number of affected farmers under the various development plans (including Yuen Long South, Kwu Tung North and Fanling North New Development Areas, as well as Hung Shui Kiu New Development Area) in the past five years, as well as the respective areas of (ii) agricultural lands and (iii) active agricultural lands involved;

(2) notwithstanding that the authorities' reason for not conducting the freezing surveys for farmers at an earlier stage is to prevent those farmers who have moved in after the completion of freezing surveys from being disqualified to claim ex-gratia allowances, how the authorities will improve the arrangements for freezing surveys, so that farmers who have been driven to move out by owners before the commencement of freezing surveys may receive reasonable compensations;

(3) of the details of the rehabilitation schemes implemented in the past five years by the authorities in respect of the various development plans in the New Territories (including implementation timetables, respective areas of government lands and private lands involved, as well as the findings of the studies on whether the lands concerned were suitable for farming); the specific arrangements for implementing the special agricultural land rehabilitation schemes applicable to Yuen Long South, Kwu Tung North and Fanling North New Development Areas, as well as Hung Shui Kiu New Development Area, which are under study by the authorities;

(4) given that there are now nearly 300 cases pending agricultural land matching under the rehabilitation schemes, and the matching time is as long as up to four to five years, whether the number of such cases and the waiting time for matching have shown an upward trend recently; if so, whether the authorities have looked into the reasons for that; whether immediate measures (e.g. increasing manpower) are in place to expedite the matching efforts, so as to assist the affected farmers in resuming farming as early as possible; if so, of the details; if not, the reasons for that; and
of the authorities' compensation policy in relation to acquisition of agricultural lands on a temporary basis; whether the authorities will, under such policy, offer compensations for a decrease in the economic value of agricultural lands caused by damage of surface soil; if so, of the details; if not, the reasons for that?

SECRETARY FOR DEVELOPMENT (in Chinese): President, in the planning for development of rural area in the New Territories, the Government has tried to minimize the impacts on residents and other stakeholders in the area. However, it is inevitable that some existing occupants and users of land would be affected, including some farmers who will not be able to continue their agricultural practices insitu. Under the existing land resumption and clearance mechanism, there are established compensation and rehousing arrangements, taking care of affected parties, including farmers.

Having consulted the Food and Health Bureau, the Agriculture, Fisheries and Conservation Department ("AFCD"), the Lands Department and the Planning Department, our replies to various parts of the question are as follows:

(1) The information on the existing farming activities in Kwu Tung North/Fanling North ("KTN/FLN") New Development Areas ("NDAs"), Hung Shui Kiu ("HSK") NDA and Yuen Long South ("YLS") Development is set out below:

<table>
<thead>
<tr>
<th></th>
<th>Affected No. of Farmers</th>
<th>Estimated Area of Affected Farmland (hectare)$^{(1)}$</th>
<th>Estimated Area of Active Farmland (hectare)</th>
</tr>
</thead>
<tbody>
<tr>
<td>KTN/FLN NDAs$^{(2)}$</td>
<td>No relevant information at this stage as land resumption not yet commenced</td>
<td>about 64</td>
<td>about 28</td>
</tr>
<tr>
<td>HSK NDA$^{(3)}$</td>
<td></td>
<td>about 27</td>
<td>about 7</td>
</tr>
<tr>
<td>YLS Development$^{(4)}$</td>
<td></td>
<td>about 12</td>
<td>about 5</td>
</tr>
</tbody>
</table>

Notes:

(1) Including active farmland.
(2) According to the North East New Territories New Development Area Planning and Engineering Study completed in 2013.

(3) According to the Hung Shui Kiu New Development Area Planning and Engineering Study completed in 2017.

(4) According to the Recommended Outline Development Plan promulgated under the Planning and Engineering Study for Housing Sites in Yuen Long South in August 2017.

(2) Under the existing mechanism for assessment of extra-gratia allowances ("EGAs") for crops, the Government will not undertake any freezing survey for farmers and their farming activities. Instead, the Government will, nearer the time of land reversion to the Government, post notices to invite the affected farmers to claim for EGAs. Upon receipt of the claims, the Government will then take stock of the crops concerned and assess the amount of EGAs. The arrangement has taken into account the relatively mobile nature of agricultural activities such that farmland can support agricultural activities by various farmers and the species planted and their quantities can vary from time to time prior to the land reversion to the Government. In other words, farmers who genuinely farm at the concerned locations near the time of land reversion will be eligible to claim and receive EGAs. Whether they started their farming activities at the concerned locations at an earlier stage is not a prerequisite.

If we introduce a freezing survey at an earlier stage as proposed by some stakeholders, it will be equivalent to setting a new condition requiring that the concerned farmers have to be recorded farming at the same locations at an earlier stage, in addition to the requirement that they are actually affected by the land resumption. If so, farmers with their operations started after the freezing survey will not be entitled to submit claims and receive EGAs, notwithstanding that they are actually affected by the land resumption. We hope that the industry will carefully weigh the pros and cons of introducing freezing survey of farmers. In addition, on some stakeholders' belief that an early freezing survey will provide farmers with better protection, we must point out that the freezing survey cannot override the tenancy agreements between landowners of agricultural land and their tenant farmers, and also related tenancy
arrangements. The tenancy agreements are private agreement matters, in which the Government cannot not intervene. If individual farmers have actually moved out prior to the Government's land resumption as a result of tenancy termination, the Government still has no justification for making use of public coffers to grant them EGAs.

On the other hand, if there are structures on the agricultural land for farmers' use, the Government will make such records in the freezing survey of structures to facilitate the future assessment of the eligibility of the households in these structures for compensation and rehousing in accordance with the prevailing arrangements.

(3) and (4)

According to the Food and Health Bureau and AFCD, to assist those who wish to rent private land for farming, AFCD implements the Agricultural Land Rehabilitation Scheme ("ALRS"), serving as a middleman by matching landowners with prospective tenants in order to help facilitate agreements on tenancy. Over the past five years (2013 to 2017), there were 105 successful cases, involving approximately 20 hectare of agricultural land. AFCD will continue to encourage landowners to lease their land for farming in order to rehabilitate fallow farmland.

AFCD will proceed with the matching once applications for leasing land under ALRS are received. Ultimately it is the landowners' decision on whether to lease out their land for agricultural use. Some landowners, having considered the rental return, would rather leave their farmland fallow than lease out for farming. As the agricultural land available for leasing is rather limited and outnumbered by applications, applicants therefore need to wait for a certain period of time before successfully leasing the farmland. Over the past five years (2013 to 2017), the waiting time of successful cases increases slightly along with increase in the number of new applications. AFCD's procedures of or manpower for processing applications do not have any bearing on the length of waiting time.
To assist farmers affected by KTN/FLN NDAs, HSK NDA and YLS development projects, the Government will proactively identify suitable Government land and landowners who are willing to sell or lease their land for agricultural rehabilitation, and carry out matching under the Special Agricultural Land Rehabilitation Scheme. We will continue to search for suitable agricultural land for agricultural rehabilitation. In tandem with the development schedules of the projects, we will promulgate the detailed arrangements of the Special Agricultural Land Rehabilitation Scheme in due course to assist affected farmers to undertake farming practices.

In addition, Government plans to build an Agricultural Park managed by AFCD in Kwu Tung South to help nurture agro-technology and agro-business management, as well as to facilitate knowledge transfer so as to enhance productivity. At the same time, the Agricultural Park may serve to accommodate eligible farmers affected by government development projects that happen to take place within the same time frame, should they wish to continue farming.

(5) For the implementation of public works projects, if needed, Government will create rights of temporary occupation of private land, in the works area for a certain period according to relevant Ordinances. The relevant landowners and farmers may be granted respective compensation and EGAs for the temporary occupation of land. They may also submit claims in accordance with the relevant Ordinances. Upon expiry of the occupation period, the Government will reinstate and return the land to the landowners according to the conditions as recorded prior to commencement of works.

"Green Belt" sites

10. MR JEREMY TAM (in Chinese): President, in recent years, the Government has implemented a series of measures to increase land supply through a multi-pronged approach so as to meet the land demand in respect of housing as well as economic and social development in Hong Kong. One of the measures is to rezone "Green Belt" ("GB") sites for other uses. However, there are comments that not only will this measure damage the ecological environment,
but it may also be not cost-effective. Regarding the statistics on and the rezoning of GB sites, will the Government inform this Council of:

(1) the total area of GB sites in each District Council district and the year-on-year change in each of the past five years (to be set out in a table);

(2) the number of GB sites the rezoning of which for other uses was approved by the Town Planning Board in each of the past five years; the total area of such sites and, among them, the respective numbers of those sites which were (i) devegetated, deserted or formed, and (ii) vegetated, before rezoning (to be set out in a table); and

(3) the respective numbers and total area of the existing GB sites which are (i) vegetated and (ii) devegetated?

SECRETARY FOR DEVELOPMENT (in Chinese): President, as part of the multi-pronged land supply strategy, through ongoing land use reviews in the last few years, the Government has identified over 210 sites with potential for housing development in the short to medium term, including 77 Green Belt ("GB") sites identified from the two-stage "GB" review and other land use reviews. The first stage of "GB" review mainly covered "GB" areas which were formed, deserted or devegetated, but possessed potential for residential development. The second stage of "GB" review covered "GB" zones in the fringe of built-up areas close to existing urban areas and new towns, and those vegetated areas with relatively less buffering effect and lower conservation value. As with other sites rezoned for housing purposes, in proposing rezoning of "GB" sites, the Government will according to the established mechanism and criteria assess a host of factors, including transport and infrastructure capacity, provision of community facilities, development constraints, potential impacts on the local environment, visual and air ventilation impacts, etc. to ensure that there will not be insurmountable impact to the local community, while providing objective information to devise appropriate mitigation measures.

My reply to various parts of the question is as follows:

(1) As at 31 December 2017, the total area of "GB" sites on statutory plans is about 16,342 hectares. The breakdown in the past five years by District Councils is set out at Annex.
From 2013 to 2017, a total of about 318 hectares of land zoned "GB" on statutory plans have been rezoned to other uses, including 33 sites (covering about 73 hectares) rezoned for housing development that were identified through the two stages of "GB" review and other land use reviews, and other "GB" sites rezoned to "Government, Institution or Community", "Open Space", "Conservation Area", area shown as "Road", and other uses. The conditions of the original "GB" sites before rezoning (including their vegetation cover) and other considerations would be set out in the submissions to the Town Planning Board. We have not collated separate statistics on the extent of vegetation for these sites before rezoning.

We do not have the statistical information regarding the number and area of vegetated or devegetated cover of the existing "GB" sites.

Annex

Total Area of Land Zoned "GB" on Statutory Plans

<table>
<thead>
<tr>
<th>District Councils</th>
<th>Year</th>
<th>Area of land zoned &quot;GB&quot; (hectare) (about)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2013</td>
<td>2014</td>
</tr>
<tr>
<td>Central and Western</td>
<td>242</td>
<td>242</td>
</tr>
<tr>
<td>Wan Chai</td>
<td>252</td>
<td>252</td>
</tr>
<tr>
<td>Eastern</td>
<td>325</td>
<td>325</td>
</tr>
<tr>
<td>Southern</td>
<td>996</td>
<td>996</td>
</tr>
<tr>
<td>Yau Tsim Mong</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Sham Shui Po</td>
<td>113</td>
<td>111</td>
</tr>
<tr>
<td>Kowloon City</td>
<td>48</td>
<td>48</td>
</tr>
<tr>
<td>Wong Tai Sin</td>
<td>200</td>
<td>200</td>
</tr>
<tr>
<td>Kwun Tong</td>
<td>150</td>
<td>154</td>
</tr>
<tr>
<td>Kwai Tsing</td>
<td>682</td>
<td>685</td>
</tr>
<tr>
<td>Tsuen Wan</td>
<td>1 047</td>
<td>1 047</td>
</tr>
<tr>
<td>Tuen Mun</td>
<td>1 229</td>
<td>1 228</td>
</tr>
<tr>
<td>Yuen Long</td>
<td>1 332</td>
<td>1 326</td>
</tr>
<tr>
<td>North</td>
<td>2 892</td>
<td>3 002</td>
</tr>
<tr>
<td>Tai Po</td>
<td>1 625</td>
<td>1 665</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>1 345</td>
<td>1 343</td>
</tr>
</tbody>
</table>
### Safety of hikers

11. **MR KENNETH LAU** (in Chinese): President, quite a number of members of the public enjoy hiking in the mountains in the fine autumn weather. However, a number of fatal accidents in which hikers fell from a height after losing their footing have occurred one after another recently. Such accidents have aroused concerns about whether the safety awareness of hikers is adequate, and whether hiking trails are well-maintained. A mountaineering expert has pointed out that the large number of hikers during holidays has speeded up the wear and tear of some popular hiking trails, but such trails are left unrepaired over a long period of time. In addition, some hikers veer off the existing trails for shortcuts, resulting in soil erosion in the intertwining breakaway tracks on both sides of quite a number of trails, thereby aggravating the wear and tear of the trails. Regarding the safety of hikers, will the Government inform this Council:

1. whether it has compiled statistics on the respective numbers of trails within and outside the ambit of the Agriculture, Fisheries and Conservation Department ("AFCD") at present; of the name (if any), the starting point and end point of each trail, as well as the government department(s) responsible for its maintenance;

2. of the number of activities (e.g. "Trail Maintenance Workshop") organized by AFCD to recruit hikers as volunteers to help repair trails in each of the past five years; the details of such activities (including (i) the numbers of participating volunteers, (ii) the dates on which such activities took place, (iii) the names (if any) of the
trails concerned, (iv) the problems addressed by the repair works, and (v) the difficulties encountered in the repair process);

(3) whether AFCD has designated staff members dedicated to repairing hiking trails; if not, of the reasons for that; if so, the current staffing establishment, and the details of the repair works undertaken by such staff members in the past five years (including (i) the dates on which such works were undertaken, (ii) the names (if any) of the trails concerned, (iii) the problems addressed by the repair works, and (iv) the difficulties encountered in the repair process);

(4) given that all of the several recent fatal accidents which involved hikers falling from a height happened at spots far away from existing trails, how the authorities will step up public education and publicity, so that hikers will put primary emphasis on their personal safety, and refrain from taking risks in order to flaunt their ability; and

(5) whether AFCD will step up publicity so that members of the public are aware of the availability of information on accident black spots in country parks on its website?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, my reply to Mr Kenneth LAU's question is as follows:

(1) There are about 80 hiking trails, with a total length of about 500 km, under the management and maintenance of Agriculture, Fisheries and Conservation Department ("AFCD") within country parks and special areas. These trails mainly include four long-distanced trails, a number of Country Trails of various lengths, Nature Trails that educate on ecology and cultural history, and Family Walks that provide for family enjoyment. The names, starting and end points of these hiking trails are listed in the Annex.

Apart from the above trails under the management of AFCD, there are a number of other trails in Hong Kong, but the Government does not keep the information of all these trails. Relevant departments will construct and maintain trail sections under their jurisdiction according to the site conditions and specific needs.
(2) Hiking activities in country parks have become increasingly popular in recent years. With a view to promoting public awareness of trail protection, AFCD has organized nine trail maintenance workshops for volunteers to participate since 2016. Through participating in the trails maintenance works, the members of the public gained more understanding of the causes of trail degradation and the difficulties of trail repairing works. About 200 volunteers joined these trail maintenance activities. Details of the activities are as follows:

<table>
<thead>
<tr>
<th>Activity Date</th>
<th>Name of Hiking Trail</th>
</tr>
</thead>
<tbody>
<tr>
<td>26.11.2016</td>
<td>MacLehose Trail Section 8 (Sze Fong Shan Section)</td>
</tr>
<tr>
<td>21.1.2017</td>
<td></td>
</tr>
<tr>
<td>11.2.2017</td>
<td>MacLehose Trail Section 3 (Kai Kung Shan Section)</td>
</tr>
<tr>
<td>4.2.2017</td>
<td></td>
</tr>
<tr>
<td>5.2.2017</td>
<td></td>
</tr>
<tr>
<td>11.11.2017</td>
<td>Ma On Shan Country Trail</td>
</tr>
<tr>
<td>12.11.2017</td>
<td></td>
</tr>
<tr>
<td>9.12.2017</td>
<td></td>
</tr>
<tr>
<td>10.12.2017</td>
<td></td>
</tr>
</tbody>
</table>

(3) Trail maintenance works in country parks are subject to various environmental constraints. The work sites are mostly located in the remote countryside where access and delivery of materials are difficult. Moreover, the use of large machineries should be avoided in order to minimize the disturbance to the natural environment. Therefore, most of the trail maintenance works have to be carried out bit by bit manually and carefully, leading to prolonged works period. AFCD does not have dedicated staff only responsible for trail maintenance. Currently, trail maintenance works in country parks and special areas are carried out by the frontline staff of the 20 management centres of AFCD. They are multitasked to cover a wide variety of duties such as afforestation, hill-fire prevention and fighting, facilities construction and maintenance, etc. for which they have received prior technical training. As a large number of trail maintenance works of various scales had been carried out during the last five years, we have difficulty in providing the detailed information such as the manpower involved, dates and name of the
trail sections repaired. However, it was noted that most of these trail maintenance works covered the repairing of trail surface, construction of steps and providing drainage to reduce soil erosion.

(4) A number of government departments are involved in publicizing and promoting hiking safety. AFCD regularly organizes promotional activities to raise awareness on hiking safety, including exhibitions and game booths at shopping malls and Country Parks Visitor Centres, and disseminates safety message through television announcements, website and pamphlets. AFCD all along encourages hikers to use trails that are managed and maintained by the Department while hikers should not explore new routes on their own or hike on unmaintained paths to prevent accidents. AFCD promotes Long Distance Trails, Country Trails, Family Walks and Nature Trails through the "Enjoy Hiking" website and mobile application. The mobile application provide information of hiking routes, including the level of difficulty of the routes, for the reference of hikers by taking into account the length, gradient, surface condition and time required for completing the journey. Individual hikers and hiking groups could make use of the information to plan for a suitable hiking route according to their physical fitness and experience. AFCD also sets up information boards and directory signs at suitable locations in country parks to provide trail information and to remind visitors of hiking safety. Warning signs have also been erected in areas which are more dangerous, in particular those with previous record of severe accidents, to alert hikers not to go there. AFCD will also review the measures from time to time, modify the existing warning signs and install additional ones where needed.

In addition, the Fire Services Department ("FSD") has posted safety hints on mountain activities, including information on hiking routes, weather conditions, clothing and gears, on the Department's website for public information. FSD would publicize such messages through various safety activities. The Civil Aid Service ("CAS") held the Launching Ceremony of the Hiking Safety Promotion Campaign with several government departments and mountaineering organizations at Pak Tam Chung P.H.A.B. (Physically Handicapped
and Able-Bodied) Site in Sai Kung in May 2017 and have launched a series of promotional activities on hiking safety. These include distributing "Hiking Safety Checklists" and promotional materials at the starting points of popular hiking trails, organizing talks and promoting through multimedia such as the Security Bureau's mobile application "Safeguard HK" on hiking safety and accident handling procedures. CAS also held the Mountaineering Safety Promotion Day with various government departments and mountaineering organizations in October 2017 at Southorn Playground in Wan Chai to enhance the public's awareness of hiking safety at mountaineering activities. The Police from time to time publicize messages on safety issues, which the public should pay attention to when going on hiking, through the Police Magazine programme and the Police's Facebook page. A total of three episodes of the Police Magazine programme related to hiking safety were broadcast in 2017, while five posts on hiking safety were also uploaded to the Police's Facebook.

(5) After consulting CAS, AFCD has listed a number of high risk locations in country parks to remind hikers that these locations are more dangerous and with previous record of serious and fatal accidents. Hikers should avoid going to these high risk locations which are tabulated below:

<table>
<thead>
<tr>
<th>Country Park</th>
<th>Name of High Risk Locations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shing Mun</td>
<td>Tai Shing Stream</td>
</tr>
<tr>
<td>Lion Rock</td>
<td>Lion Rock Peak</td>
</tr>
<tr>
<td>Sai Kung East</td>
<td>Sharp Peak</td>
</tr>
<tr>
<td></td>
<td>Quadruplex Pool</td>
</tr>
<tr>
<td></td>
<td>Yin Tsz Ngam</td>
</tr>
<tr>
<td>Plover Cove</td>
<td>Bride's Pool Waterfall</td>
</tr>
<tr>
<td>Lantau South</td>
<td>Kau Nga Ling area</td>
</tr>
<tr>
<td></td>
<td>Shui Lo Cho</td>
</tr>
<tr>
<td>Lantau North</td>
<td>Wong Lung Stream</td>
</tr>
<tr>
<td></td>
<td>Nei San Stream (near Nei Lak Shan Country Trail)</td>
</tr>
<tr>
<td>Pat Sin Leng</td>
<td>Hsien Ku Fung</td>
</tr>
<tr>
<td></td>
<td>Ping Nam Stream</td>
</tr>
</tbody>
</table>
The relevant information of high risk locations has been uploaded onto the "Enjoy Hiking" website for the reference of hikers in planning their hiking routes. The information will be updated from time to time as necessary. Details of the locations can be found at <http://www.hiking.gov.hk/fatal_and_accident_case/index_en.htm>. AFCD will continue to keep the public informed of such high risk locations and the potential risk through various media and channels.

Annex

Hiking Trails under Management and Maintenance of AFCD

<table>
<thead>
<tr>
<th>Name of Hiking Trail</th>
<th>Starting Point</th>
<th>End Point</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Long Trail</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MacLehose Trail</td>
<td>Sai Kung Pak Tam Chung</td>
<td>Tuen Mun</td>
</tr>
<tr>
<td>Hong Kong Trail</td>
<td>Victoria Peak</td>
<td>Tai Long Wan, Hong Kong Island</td>
</tr>
<tr>
<td>Lantau Trail</td>
<td>Mui Wo</td>
<td>Mui Wo</td>
</tr>
<tr>
<td>Wilson Trail</td>
<td>Stanley Gap Road</td>
<td>Nam Chung</td>
</tr>
<tr>
<td><strong>Country Trail</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cheung Sheung Country Trail</td>
<td>Hoi Ha Road</td>
<td>Yung Shue O</td>
</tr>
<tr>
<td>Chi Ma Wan Country Trail</td>
<td>Shap Long Campsite</td>
<td>Shap Long Campsite</td>
</tr>
<tr>
<td>Fan Lau Country Trail</td>
<td>Lantau Trail Section 7 (to Fan Lau Tung Wan)</td>
<td>Fan Lau Village</td>
</tr>
<tr>
<td>High Junk Peak Country Trail</td>
<td>Ng Fai Tin</td>
<td>Tai Mui Au</td>
</tr>
<tr>
<td>Hok Tau Country Trail</td>
<td>Hok Tau Road</td>
<td>Hok Tau Road</td>
</tr>
<tr>
<td>Name of Hiking Trail</td>
<td>Starting Point</td>
<td>End Point</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>---------------------------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>Hong Pak Country Trail</td>
<td>Quarry Bay Management Centre</td>
<td>Mount Parker Road</td>
</tr>
<tr>
<td>Kap Lung Ancient Trail</td>
<td>Tsuen Wan Au</td>
<td>Lui Kung Tin</td>
</tr>
<tr>
<td>Keung Shan Country Trail</td>
<td>Tai O Road</td>
<td>Kau Leng Chung catchwater</td>
</tr>
<tr>
<td>Lau Shui Heung Country Trail</td>
<td>Lau Shui Heung Reservoir</td>
<td>Lau Shui Heung Reservoir</td>
</tr>
<tr>
<td>Lo Fu Tau Country Trail</td>
<td>A Po Long (Olympic Trail)</td>
<td>Lo Fu Tau</td>
</tr>
<tr>
<td>Luk Wu Country Trail</td>
<td>Sai Kung Sai Wan Road</td>
<td>Pak Tam Road Yee Ting</td>
</tr>
<tr>
<td>Lung Ha Wan Country Trail</td>
<td>Tai Hang Tun</td>
<td>Lung Ha Wan</td>
</tr>
<tr>
<td>Lung Mun Country Trail</td>
<td>Chuen Lung</td>
<td>Pineapple Dam</td>
</tr>
<tr>
<td>Ma On Shan Country Trail</td>
<td>Ma On Shan Barbecue Site</td>
<td>Tai Shui Tseng</td>
</tr>
<tr>
<td>Nam Chung Country Trail</td>
<td>Nam Chung</td>
<td>Tan Chuk Hang</td>
</tr>
<tr>
<td>Nei Lak Shan Country Trail</td>
<td>Dong Shan Fa Mun</td>
<td>Dong Shan Fa Mun</td>
</tr>
<tr>
<td>Pak Tam Chung Country Trail</td>
<td>Pak Tam Au</td>
<td>Yee Ting on Pak Tam Road</td>
</tr>
<tr>
<td>Ping Chau Country Trail</td>
<td>Ping Chau Pier</td>
<td>Ping Chau Pier</td>
</tr>
<tr>
<td>Plover Cove Reservoir Country Trail</td>
<td>Wu Kau Tang</td>
<td>Tai Mei Tuk</td>
</tr>
<tr>
<td>Pottinger Peak Country Trail</td>
<td>Shek O Ma Tong Au</td>
<td>Cape Collinson Road</td>
</tr>
<tr>
<td>Shek Pik Country Road</td>
<td>Wisdom Path</td>
<td>Shek Pik Catchwater</td>
</tr>
<tr>
<td>Sheung Yiu Country Trail</td>
<td>Sheung Yiu</td>
<td>Sai Kung Man Yee Road</td>
</tr>
<tr>
<td>South Lantau Country Trail</td>
<td>Nam Shan</td>
<td>Tong Fuk Catchwater</td>
</tr>
<tr>
<td>Tai Lam Chung Country Trail</td>
<td>Ma On Kong Warden Post</td>
<td>Kat Hing Bridge</td>
</tr>
<tr>
<td>Tai Tam Country Trail</td>
<td>Wong Nai Chung Reservoir Park</td>
<td>Wong Nai Chung Reservoir Park</td>
</tr>
<tr>
<td>Tai Tan Country Trail</td>
<td>Hau Tong Kai</td>
<td>Hoi Ha Village</td>
</tr>
<tr>
<td>Tei Tong Tsai Country Trail</td>
<td>Tung Chung Road</td>
<td>Tei Tong Tsai</td>
</tr>
<tr>
<td>Wong Lung Hang Country Trail</td>
<td>Sheung Tung Chung Au</td>
<td>Wong Lung Hang Road</td>
</tr>
<tr>
<td>Name of Hiking Trail</td>
<td>Starting Point</td>
<td>End Point</td>
</tr>
<tr>
<td>----------------------</td>
<td>----------------</td>
<td>------------------------</td>
</tr>
<tr>
<td><strong>Wu Kau Tang Country Trail</strong></td>
<td>Wu Kau Tang Tin Sam</td>
<td>Bride's Pool Road</td>
</tr>
<tr>
<td><strong>Yuen Tsuen Ancient Trail</strong></td>
<td>Tsuen Wan Ha Fa Shan</td>
<td>Tai Tong Barbecue Site</td>
</tr>
<tr>
<td><strong>Yuen Tun Country Road</strong></td>
<td>Tsing Lung Tau</td>
<td>Kat Hing Bridge</td>
</tr>
</tbody>
</table>

**Nature Trail**

<table>
<thead>
<tr>
<th>Name of Hiking Trail</th>
<th>Starting Point</th>
<th>End Point</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aberdeen Nature Trail</td>
<td>Lower Aberdeen Reservoir</td>
<td>Upper Aberdeen Reservoir</td>
</tr>
<tr>
<td>Bride's Pool Nature Trail</td>
<td>Bride's Pool</td>
<td>Bride's Pool</td>
</tr>
<tr>
<td>Eagle's Nest Nature Trail</td>
<td>Tai Po Road</td>
<td>Tai Po Road</td>
</tr>
<tr>
<td>Hung Mui Kuk Nature Trail</td>
<td>Hung Mui Kuk</td>
<td>Catchwater</td>
</tr>
<tr>
<td>Lai Chi Wo Nature Trail</td>
<td>Lai Chi Wo</td>
<td>Lai Chi Wo</td>
</tr>
<tr>
<td>Ma Shi Chau Nature Trail</td>
<td>Sam Mun Tsai</td>
<td>Ma Shi Chau</td>
</tr>
<tr>
<td>Pak Tam Chung Nature Trail</td>
<td>Tai Mong Tsai Road Fuk Hing Bridge</td>
<td>Folk Museum</td>
</tr>
<tr>
<td>Pat Sin Leng Nature Trail</td>
<td>Tai Mei Tuk Management Centre</td>
<td>Bride's Pool</td>
</tr>
<tr>
<td>Pineapple Dam Nature Trail</td>
<td>Pineapple Dam</td>
<td>Pineapple Dam</td>
</tr>
<tr>
<td>Rotary Park Nature Trail</td>
<td>Rotary Park</td>
<td>Route Twisk</td>
</tr>
<tr>
<td>Tai Tong Nature Trail</td>
<td>Tai Tong Barbecue Area</td>
<td>Tai Tong Management Centre</td>
</tr>
<tr>
<td>Tai Lam Nature Trail</td>
<td>Tai Tong</td>
<td>Tsing Lung Tau</td>
</tr>
<tr>
<td>Tai Po Kau Nature Trail</td>
<td>Tsung Tsai Yuen</td>
<td>Picnic Site No. 1 Tai Po Kau Nature Reserve</td>
</tr>
<tr>
<td>Tsiu Hang Nature Trail</td>
<td>Lions Nature Education Centre</td>
<td>Lions Nature Education Centre Insectarium</td>
</tr>
<tr>
<td>Twisk Nature Trail</td>
<td>Tsuen Kam Au</td>
<td>Tsuen Kam Au</td>
</tr>
</tbody>
</table>

**Family Walk**

<table>
<thead>
<tr>
<th>Name of Family Walk</th>
<th>Starting Point</th>
<th>End Point</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chuen Lung Family Walk</td>
<td>Chuen Lung Barbecue Area</td>
<td>Chuen Lung Barbecue Area</td>
</tr>
<tr>
<td>Fung Hang Family Walk</td>
<td>Fung Hang</td>
<td>Bride's Pool Road</td>
</tr>
<tr>
<td>Ho Pui Family Walk</td>
<td>Ho Pui Village</td>
<td>Ho Pui Village</td>
</tr>
<tr>
<td>Hok Tau Family Walk</td>
<td>Hok Tau Reservoir</td>
<td>Hok Tau Reservoir</td>
</tr>
<tr>
<td>Kam Shan Family Walk</td>
<td>Kam Shan Road</td>
<td>Kam Shan Road</td>
</tr>
<tr>
<td>Ma On Shan Family Walk</td>
<td>Ma On Shan Barbecue Area</td>
<td>Ma On Shan Barbecue Area</td>
</tr>
<tr>
<td>Pak Tam Chung Family Walk</td>
<td>Pak Tam Chung Barbecue Area Car Park</td>
<td>Pak Tam Road</td>
</tr>
</tbody>
</table>
Public light buses

12. **MR LUK CHUNG-HUNG** (in Chinese): President, regarding the public light buses ("PLBs"), will the Government inform this Council:

- (1) of the respective numbers of complaints received in each of the past three years by the authorities about the services of red minibuses ("RMBs") and green minibuses ("GMBs"), with a breakdown by type of complaint;

- (2) of the authorities' measures in the past three years to encourage the operators of RMBs to apply for the operation of green minibus routes, and the number of RMBs converted to GMBs each year;

- (3) given that the statutory ceiling for passenger seating capacity of PLBs has been raised from 16 to 19 seats since 7 July of last year, whether the authorities have

  (i) compiled statistics on the existing number of RMBs and GMBs converted to provide 19 seats which (a) are in service after passing the vehicle examination and (b) have not yet passed the vehicle examination; and

  (ii) looked into how the current respective business conditions of RMBs and GMBs compare with those before 7 July of last year; and
whether it will consider cancelling the restriction zones on certain roads where drivers of PLBs are prohibited from picking up or setting down passengers, or relaxing the prohibition hours of such zones, with a view to improving the operating environment for PLBs; if so, of the details; if not, the reasons for that?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, in the public transport system of Hong Kong, public light buses ("PLBs") have all along been playing the role of providing supplementary feeder service to serve areas with relatively lower passenger demand or where the use of high-capacity transport modes is not suitable. There are two types of PLBs, namely green minibuses ("GMBs") and red minibuses ("RMBs"). GMBs operate scheduled services with their routes, fares, vehicle allocation and timetable subject to approval by the Transport Department ("TD"). RMBs are not required to operate on fixed routes or timetable and can set their own fares. To facilitate the operation of the trade, the Government introduces measures from time to time and adjusts the networks and services of PLBs.

My reply to the various parts of Mr LUK Chung-hung's question is as follows:

(1) The number of complaints received from 2015 to 2017 by TD through the Transport Complaints Unit and the 1823 Centre regarding RMB and GMB services is set out at the Annex.

(2) It has been the Government's established policy to encourage the conversion of RMBs to GMBs for the sake of ensuring service quality level and achieving effective monitoring. As such, TD has been introducing new route packages suitable for GMB operation, having regard to the demand for public transport services, geographical locations and operational viability of routes, etc., and inviting operators (including RMB operators) to apply for running these routes through open invitation. The applications will be assessed by the Green Minibus Operators Selection Board in accordance with a set of selection criteria and prescribed marking scheme.

To encourage RMBs to convert to GMBs, applicants who are new entrants to the GMB trade (including the existing operators operating
RMB services only) will be given full marks under the assessment item of "whether the applicant is a new entrant to the GMB trade" since 2002. The percentage of this item, which originally accounted for 10% of the total score, was raised to 15% starting from 2004. Records showed that TD introduced a total of nine new GMB routes in the past three years, and the operating rights of eight of these routes were obtained by RMB operators.

Meanwhile, the Government has been encouraging the existing GMB operators to purchase RMB vehicles on the market so as to enlarge their fleet size for improvement of services.

With the above measures in place, the number of GMB vehicles has progressively increased in the past three years from 3,204 (about 74%) at end 2015 to 3,281 (about 75%) at end 2017. The breakdown is as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of RMBs</th>
<th>Number of GMBs</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>1,146</td>
<td>3,204</td>
</tr>
<tr>
<td>2016</td>
<td>1,096</td>
<td>3,254</td>
</tr>
<tr>
<td>2017</td>
<td>1,069</td>
<td>3,281</td>
</tr>
</tbody>
</table>

(3) Currently, TD's work progress on examining 19-seat PLBs has been satisfactory. As at end 2017, a total of 249 19-seat PLBs (accounted for 6% of the registered PLBs in Hong Kong), including 212 GMBs and 37 RMBs, have passed the vehicle examination and have since been registered. Among these, 163 are newly registered 19-seat PLBs while the remaining 86 (including 85 GMBs and 1 RMB) are converted from serving long wheelbase PLBs. On 16 January 2018, only one 19-seat PLB was awaiting examination.

The above mentioned examined and registered 19-seat PLBs have been deployed to various routes for operation since August 2017. The Government will launch a regular survey on the market occupancy rate of light buses in 2018-2019, in which the supply of, the demand for, and the operation of PLB services subsequent to the implementation of the new maximum seating capacity will also be reviewed.
(4) Taking into account the road congestion problem in Hong Kong and unregulated routes and frequencies of RMB services, the Government has to introduce some restrictive measures (e.g. clearways and no entry to certain road sections/areas) to maintain effective district traffic management.

Nevertheless, having regard to the request of the RMB trade and taking into account the actual situation of individual locations, TD has relaxed or rescinded some passenger pick-up/drop-off restricted zones and prohibited zones where possible. Apart from allowing RMBs access to West Kowloon Corridor and certain sections of Island Eastern Corridor, TD has further relaxed restrictions on certain sections of Kwun Tong Bypass and East Kowloon Corridor in recent years. Further, TD, through good communication and collaboration with the trade, implemented a pilot scheme in June 2017 to relax the PLB prohibited zone at Sugar Street in Causeway Bay. The arrangement has enabled smoother and more convenient RMB operation in the district.

TD will continue to study and discuss with the trade the feasibility of relaxing or rescinding other passenger pick-up/drop-off restricted zones and prohibited zones.

Annex

Complaints regarding GMB and RMB services received by TD from 2015 to 2017 (up to November)

<table>
<thead>
<tr>
<th>Nature of Complaint</th>
<th>2015 (1)</th>
<th>2016 (2)</th>
<th>2017 (up to November) (3)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>GMB</td>
<td>RMB</td>
<td>GMB</td>
</tr>
<tr>
<td>(A) Adequacy of Service</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Frequency/carrying capacity</td>
<td>1 109</td>
<td>42</td>
<td>1 066</td>
</tr>
<tr>
<td>(2) Routeing</td>
<td>126</td>
<td>4</td>
<td>89</td>
</tr>
<tr>
<td>(3) Hours of operation</td>
<td>31</td>
<td>5</td>
<td>46</td>
</tr>
<tr>
<td>(4) Provision of stops</td>
<td>180</td>
<td>8</td>
<td>134</td>
</tr>
<tr>
<td>Sub-total</td>
<td>1 446</td>
<td>59</td>
<td>1 335</td>
</tr>
<tr>
<td>Nature of Complaint</td>
<td>2015(^{(1)})</td>
<td>2016(^{(2)})</td>
<td>2017 (up to November)(^{(3)})</td>
</tr>
<tr>
<td>---------------------------------------------------------</td>
<td>----------------</td>
<td>----------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td></td>
<td>GMB</td>
<td>RMB</td>
<td>GMB</td>
</tr>
<tr>
<td>(B) Standard of Service</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) Regularity of service</td>
<td>2 438</td>
<td>37</td>
<td>2 383</td>
</tr>
<tr>
<td>(2) Adherence to routeing</td>
<td>922</td>
<td>20</td>
<td>975</td>
</tr>
<tr>
<td>(3) Improper driving behaviour</td>
<td>925</td>
<td>180</td>
<td>998</td>
</tr>
<tr>
<td>(4) Conduct and performance of staff (including drivers)</td>
<td>2 518</td>
<td>223</td>
<td>2 679</td>
</tr>
<tr>
<td>(5) Overcharging</td>
<td>332</td>
<td>22</td>
<td>289</td>
</tr>
<tr>
<td>(6) Cleanliness</td>
<td>82</td>
<td>4</td>
<td>89</td>
</tr>
<tr>
<td>(7) Conditions of vehicles</td>
<td>151</td>
<td>12</td>
<td>156</td>
</tr>
<tr>
<td>(8) Passenger services and facilities</td>
<td>354</td>
<td>30</td>
<td>337</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sub-total</td>
<td>7 722</td>
<td>528</td>
<td>7 906</td>
</tr>
<tr>
<td>(C) General(^{(4)})</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>352</td>
<td>67</td>
<td>442</td>
</tr>
<tr>
<td>Grand Total</td>
<td>9 520</td>
<td>654</td>
<td>9 683</td>
</tr>
</tbody>
</table>

Notes:

(1) In 2015, the number of GMB and RMB was 3 204 and 1 146 respectively.

(2) In 2016, the number of GMB and RMB was 3 254 and 1 096 respectively.

(3) In 2017, the number of GMB and RMB was 3 281 and 1 069 respectively.

(4) This category of complaint cases mainly concerns traffic obstruction caused by PLBs, policies or legislation, etc.

Private recreational leases

13. **MS TANYA CHAN** (in Chinese): President, in October 2013, the Director of Audit published the results of value for money audits on the Government's "direct land grants to private sports clubs at nil or nominal premium". In response to the report, the Government set up an inter-departmental working group ("the working group") in June 2014 to review the policy on private recreational leases ("PRLs"), and it anticipated that preliminary findings of the review would be available by the end of that year. However, the Government has not completed the review so far. In this connection, will the Government inform this Council:
of (i) the membership and (ii) the government official in charge of the working group; the number of meetings held by the working group so far, as well as the date and venue of each meeting; whether the relevant documents and minutes of meetings can be made public; the work progress of the working group, and whether a preliminary report has been completed; if so, whether it can be made public immediately;

when the authorities will (i) publish the review report, (ii) report to this Council the review findings and (iii) consult the public on the recommendations in the review report;

of the number and details of cases in the past five years in which lessees did not comply with the requirement in PRLs to submit quarterly reports on the situation of their facilities being opened up to outside bodies; whether the authorities can make public all of the quarterly reports received so far; the number of inspections conducted by the authorities in the past three years to examine whether the lessees had opened up their facilities in the same manner as that described in the quarterly reports submitted, and the details and findings of such inspections;

whether it knows, in each of the past three years, the respective total numbers of hours for which the various PRL venues were (i) available for use and (ii) actually used, by outside bodies (set out in Table 1);

<table>
<thead>
<tr>
<th>Name of lessee</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(i)</td>
<td>(ii)</td>
<td>(i)</td>
</tr>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

whether it knows, in each of the past three years, the respective (i) total number of hours for which various outside bodies used PRL venues and (ii) the fees paid by such bodies for that (set out in Table 2);

<table>
<thead>
<tr>
<th>Name of outside body</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(i)</td>
<td>(ii)</td>
<td>(i)</td>
</tr>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(6) whether the seven PRLs expiring last year and this year have been/will be renewed; if so, of (i) the terms of the new PRLs and (ii) the justifications for granting the new PRLs, broken down by name of lessee;

(7) of the current number of cases in which lessees are allowed to set up restaurants and accommodation facilities on the PRL sites, and set out such facilities by name of lessee;

(8) given that the Lands Department ("LandsD") issued a "holding over" letter to The Clearwater Bay Golf and Country Club on six occasions during the period from March 2013 to December 2015, allowing the lessee to hold over the site the PRL of which had expired in 2012, of the reasons why LandsD subsequently granted the lessee a PRL for a term of 12 years, and by whom and on what ground that the decision was made; whether the authorities have assessed if it was appropriate to make such a decision while the PRL review is underway;

(9) of the number of cases of PRL renewal approved by LandsD since the launch of the review and the expiry dates of the renewed PRLs, broken down by name of lessee; and

(10) of the amount of government rent paid by each PRL lessee in each of the past three years (set out in a table)?

SECRETARY FOR HOME AFFAIRS (in Chinese): President, my reply to the 10-part question is as follows:

(1) and (2)

In June 2014, the Home Affairs Bureau set up an inter-departmental working group to comprehensively review the policy on private recreational leases ("PRLs"), with standing members comprising representatives of the Development Bureau, the Lands Department ("LandsD") and the Planning Department. The Government understands the public has much concern about the review. Given the extensive scope and complexity of the review as well as the need
to strike an appropriate balance among various considerations (including sports development needs, land use and interests of lessees, their members and the public at large), the working group has examined a number of issues relating to the PRL policy and will recommend an array of measures to ensure that the operation of private sports clubs and the use of PRL sites can better meet the dual objectives of supporting sports development and optimizing public resources. We expect to report the review findings to the Legislative Council Panel on Home Affairs in 2018, and subsequently conduct public and stakeholder consultation.

(3) In the past five years, all lessees complied with the PRL requirement on submitting quarterly reports to the Home Affairs Bureau. As information therein is provided by lessees as a third party, we have to seek their consent, as required by the Code on Access to Information ("the Code"), before disclosing such information. Starting from 2015-2016, the Home Affairs Bureau has been conducting annual inspections to all private sports clubs. During the two rounds of inspections conducted so far, the opening up of venue facilities by lessees was found to be generally in line with the situation described in the corresponding quarterly reports. The Home Affairs Bureau is planning to conduct a new round of annual inspections.

(4) and (5)

To encourage lessees to support Government's sports development policy objectives, the Government required, upon renewal of PRLs expired/expiring in 2011 and 2012, the opening up of sports facilities by lessees to eligible outside bodies for a minimum of 50 hours per month.

The list on available hours to eligible outside bodies for sports facilities on PRL sites held by private sports clubs in the past three years is at Annex 1. As for PRL sites held by community organizations (such as camp facilities operated by charitable organizations and indoor sports centres run by district sports associations), they are essentially open to members of the public.
Regarding details of the opening up of facilities for use by eligible outside bodies, including names of user organizations, pre-disclosure consent from lessees, who provide such information as a third party, has to be sought in accordance with the Code as stated in part (3) above. A summary on utilization of private sports clubs' facilities by eligible outside bodies for organizing activities in the past three years is at Annex 2.

(6), (8) and (9)

Under the PRL policy, all renewals of expired leases are subject to approval by the Executive Council ("ExCo"). In May 2011, according to the current PRL policy, renewal of PRLs expiring in 2011 and 2012 at nominal premium were approved with amendments made to certain clauses in the renewed leases to include the greater access requirement.

Renewal of the PRL site of the Clearwater Bay Golf & Country Club was approved in May 2011 for a term of 15 years. The lessee, however, was required to fulfil all lease clauses, such as further opening up of facilities to outside bodies, before the grant of formal renewal. As departments concerned needed time to process relevant renewal issues, such as thorough discussion with the lessee on details of enhancing access to facilities and drawing up of clauses for the renewed lease, LandsD issued six "holding over" letters to the lessee between July 2012 and February 2016, as a stop-gap measure for avoiding creation of any "vacuum period" in the lease, to allow his holding over of the site concerned under the terms and conditions of the expired lease. Upon completion of the renewal process in 2016, LandsD formally renewed the lease with the lessee for a term of 15 years (counting from the expiry date of the original lease).

As for lessees of PRLs expiring in 2013, 2014 and 2015, they were permitted to continue using the sites concerned under the "holding over" arrangement\(^{(1)}\) until matters related to the policy review on PRL were completed. In other words, no PRL renewals were

\(^{(1)}\) "Holding over" arrangement is a transitional arrangement to cover the period from PRL expiry to completion of renewal procedures.
approved since the launch of the review. The concerned lessees only continue to use the sites under the "holding over" arrangement.

(7) Under the current PRL policy, lessees may provide recreational and sports facilities on sites as well as ancillary facilities to cater for sports training, competition needs and recreational use. However, the operation of such ancillary facilities is governed by PRL clauses, such as prohibition on use for commercial purpose and opening up to non-members or non-users of recreational and sports facilities.

(10) Government rents payable by lessees in the recent three financial years based on information provided by the Rating and Valuation Department and LandsD are at Annex 3.

Annex 1

Total Facility hours\(^{(1)}\) of Private Sports Clubs Available to Eligible Outside Bodies in the past three years

<table>
<thead>
<tr>
<th>Name of Lessee</th>
<th>Lot Number and Location</th>
<th>2015 Total hours</th>
<th>2016 Total hours</th>
<th>2017 Total hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chinese Recreation Club, Hong Kong</td>
<td>IL 9040, Tung Lo Wan Road</td>
<td>14 400</td>
<td>14 400</td>
<td>14 400</td>
</tr>
<tr>
<td>Clearwater Bay Golf and Country Club</td>
<td>Lot 269 in DD 241, Po Toi O, Sai Kung</td>
<td>20 304</td>
<td>20 304</td>
<td>20 304</td>
</tr>
<tr>
<td>Club de Recreio</td>
<td>KIL 11221</td>
<td>14 136</td>
<td>14 136</td>
<td>14 136</td>
</tr>
<tr>
<td>Craigengower Cricket Club</td>
<td>IL 9031, No. 188 Wong Nai Chung Road</td>
<td>27 624</td>
<td>27 624</td>
<td>27 624</td>
</tr>
<tr>
<td>Filipino Club</td>
<td>KIL 11222, Wylie Road</td>
<td>3 840</td>
<td>3 840</td>
<td>3 840</td>
</tr>
<tr>
<td>Hong Kong Country Club</td>
<td>RBL 1195, No. 188 Wong Chuk Hang Road</td>
<td>5 880</td>
<td>5 880</td>
<td>5 880</td>
</tr>
<tr>
<td>Hong Kong Cricket Club</td>
<td>IL 9019, No. 137 Wong Nai Chung Gap Road</td>
<td>N/A(^{(2)})</td>
<td>N/A(^{(2)})</td>
<td>N/A(^{(2)})</td>
</tr>
<tr>
<td>Hong Kong Football Club</td>
<td>IL 9033, No. 3 Sports Road, Happy Valley</td>
<td>25 116</td>
<td>25 116</td>
<td>25 116</td>
</tr>
<tr>
<td>Hong Kong Golf Club</td>
<td>RBL 1194, Deep Water Bay</td>
<td>7 920</td>
<td>7 920</td>
<td>7 920</td>
</tr>
<tr>
<td>Name of Lessee</td>
<td>Lot Number and Location</td>
<td>2015 Total hours</td>
<td>2016 Total hours</td>
<td>2017 Total hours</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>---------------------------------------------</td>
<td>------------------</td>
<td>------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>10. Hong Kong Golf Club</td>
<td>Lot 942 RP in DD 94, Sheung Shui</td>
<td>N/A(2)</td>
<td>N/A(2)</td>
<td>N/A(2)</td>
</tr>
<tr>
<td>11. Hong Kong Gun Club</td>
<td>TWTL 419, Chuen Lung, Tsuen Wan</td>
<td>6 048</td>
<td>6 048</td>
<td>6 048</td>
</tr>
<tr>
<td>12. Hong Kong Model Engineering Club Limited</td>
<td>Lot 2416 in DD 118, Tai Tong, Yuen Long</td>
<td>N/A(3)</td>
<td>N/A(3)</td>
<td>N/A(3)</td>
</tr>
<tr>
<td>13. India Club, Kowloon</td>
<td>KIL 11223, Gascoigne Road</td>
<td>3 264</td>
<td>3 264</td>
<td>3 264</td>
</tr>
<tr>
<td>14. Indian Recreation Club</td>
<td>IL 9039, No. 63 Caroline Hill Road, So Kon Po</td>
<td>27 000</td>
<td>27 000</td>
<td>27 000</td>
</tr>
<tr>
<td>15. Jardine's Lookout Residents' Association</td>
<td>IL 8895, No. 2 Creasy Road, Jardine's Lookout</td>
<td>6 240</td>
<td>6 240</td>
<td>6 240</td>
</tr>
<tr>
<td>16. Kowloon Bowling Green Club</td>
<td>KIL 11217, Austin Road</td>
<td>1 932</td>
<td>1 932</td>
<td>1 932</td>
</tr>
<tr>
<td>17. Kowloon Cricket Club</td>
<td>KIL 11216, Cox's Road</td>
<td>39 840</td>
<td>39 840</td>
<td>39 840</td>
</tr>
<tr>
<td>18. Kowloon Tong Club</td>
<td>NKIL 6528, No. 113A Waterloo Road, Kowloon Tong</td>
<td>8 520</td>
<td>8 520</td>
<td>8 520</td>
</tr>
<tr>
<td>19. Kowloon Tsai Home Owners Association</td>
<td>NKIL 6529, No. 10A Cambridge Road</td>
<td>3 360</td>
<td>3 360</td>
<td>3 360</td>
</tr>
<tr>
<td>20. Pakistan Association of Hong Kong Limited</td>
<td>KIL 11220, Princess Margaret Road</td>
<td>3 408</td>
<td>3 408</td>
<td>3 408</td>
</tr>
<tr>
<td>21. Yau Yat Chuen Garden City Club Limited</td>
<td>NKIL 6508, No. 7 Cassia Road, Yau Yat Chuen</td>
<td>7 872</td>
<td>7 872</td>
<td>7 872</td>
</tr>
</tbody>
</table>

Notes:

(1) Calculation of total facility hours is based on the committed opening-up hours for eligible Outside Bodies per month as approved in the Open-up Schemes submitted by the private sports clubs. For example, if the number of committed opening-up hours is 100 hours per month, the total facility hours available in a year will be 1 200 (100 x 12) hours.

(2) The current leases of these lessees were granted before 2011. The requirement on Open-up Scheme was not yet implemented at that time. Nevertheless, these lessees also open their facilities to eligible Outside Bodies. Relevant NSAs regularly reserve the sports facilities for training and competitions.

(3) The lessee offers runway for model plane flying which is open to the public.
(4) The Aberdeen Boat Club, Hebe Haven Yacht Club, Royal Hong Kong Yacht Club and Victoria Recreation Club mainly provide water sports training programmes and activities. Their training programmes and activities are open for public enrolment and they do not have sports facilities for use by eligible Outside Bodies.

Annex 2

Summary of Eligible Outside Bodies' Utilization of Private Sports Clubs' Facilities or Venues for Organizing Activities in the Past Three Years

<table>
<thead>
<tr>
<th>Club</th>
<th>Location and Lot Number</th>
<th>Provision of Facilities and Opening-Up of Venues for Organizing Activities by Eligible Outside Bodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aberdeen Boat Club</td>
<td>AIL 454, Shum Wan Road, Brick Hill</td>
<td>Provided water sports programmes and activities which were open for public enrolment</td>
</tr>
</tbody>
</table>
| Chinese Recreation Club, Hong Kong  | IL 9040, Tung Lo Wan Road                   | - As tennis competition or training venue; for learning the sport concerned, training and holding activities by outside bodies  
                                       |                                             | - Provided warm-up facilities and back-up venues for major sports events organized by HKTA such as Hong Kong ITF Women's Pro Circuit 2015 Tournament and the WTA Hong Kong Tennis Open, which is an "M" Mark event |
| Clearwater Bay Golf & Country Club  | Lot 269 in DD 241, Po Toi O, Sai Kung       | - As golf competition or training venue; for learning the sport concerned, training and holding activities by outside bodies  
<pre><code>                                   |                                             | - Hosted international golf tournaments such as the Asia-Pacific Amateur Golf Open in 2015 and the PGA Tour China Series in 2016 and 2017 |
</code></pre>
<table>
<thead>
<tr>
<th>Club</th>
<th>Location and Lot Number</th>
<th>Provision of Facilities and Opening-Up of Venues for Organizing Activities by Eligible Outside Bodies</th>
</tr>
</thead>
</table>
| Club De Recreio             | KIL 11221               | - As hockey and lawn bowls competition or training venue; for learning the sport concerned, training and holding activities by outside bodies  
- As one of the venues for the Hong Kong International Bowls Classic 2015 and 2017 |
| Craigengower Cricket Club   | IL 9031, No. 188 Wong Nai Chung Road | - As hockey and lawn bowls competition or training venue; for learning the sports concerned, training and holding activities by outside bodies  
- As one of the venues for the Hong Kong International Bowls Classic 2016 |
| Filipino Club               | KIL 11222, Wylie Road   | As lawn bowls competition or training venue; for learning the sport concerned, training and holding activities by outside bodies |
| Hebe Haven Yacht Club       | Lot 1208 in DD 217, Pak Sha Wan | - Provided water sports programmes and activities which were open for public enrolment  
- Provided the training base for the disabled sailing programme "Sailability", which trained Hong Kong athletes for participation in major international disabled sports events such as the Paralympic and Asian Para Games |
<p>| Hong Kong Country Club      | RBL 1195, No. 188 Wong Chuk Hang Road | As tennis competition or training venue; for learning the sport concerned, training and holding activities by outside bodies |</p>
<table>
<thead>
<tr>
<th>Club</th>
<th>Location and Lot Number</th>
<th>Provision of Facilities and Opening-Up of Venues for Organizing Activities by Eligible Outside Bodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong Kong Cricket Club</td>
<td>IL 9019, No. 137 Wong Nai Chung Gap Road</td>
<td>As cricket and lawn bowls competition or training venue; for learning the sports concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td>Hong Kong Football Club</td>
<td>IL 9033, No. 3 Sports Road, Happy Valley</td>
<td>As hockey, rugby, football, tennis, lawn bowls and squash competition or training venue; for learning the sports concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- As one of the venues for the World Masters Squash Championships from 2015 to 2017</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Hosted the International Soccer Sevens from 2015 to 2017</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- As one of the venues for the Hong Kong International Bowls Classic 2016</td>
</tr>
<tr>
<td>Hong Kong Golf Club</td>
<td>Lot 942 RP in DD 94, Sheung Shui</td>
<td>As golf competition or training venue; for learning the sport concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Hosted the Hong Kong Open, which was an &quot;M&quot; Mark event; and provided venue for the Hong Kong Ladies Open starting from 2016</td>
</tr>
<tr>
<td>RBL 1194, Deep Water Bay</td>
<td>-</td>
<td>As golf competition or training venue; for learning the sport concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td>Club</td>
<td>Location and Lot Number</td>
<td>Provision of Facilities and Opening-Up of Venues for Organizing Activities by Eligible Outside Bodies</td>
</tr>
<tr>
<td>------</td>
<td>-------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Hong Kong Gun Club</td>
<td>TWTL 419, Chuen Lung, Tsuen Wan</td>
<td>As shooting competition or training venue; for learning the sport concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td>Hong Kong Model Engineering Club</td>
<td>Lot 2416 in DD 118, Tai Tong, Yuen Long</td>
<td>Provided runway for model plane flying which was open to public use</td>
</tr>
<tr>
<td>India Club, Kowloon</td>
<td>KIL 11223, Gascoigne Road</td>
<td>As tennis competition or training venue; for learning the sport concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td>Indian Recreation Club</td>
<td>IL 9039, No. 63 Caroline Hill Road, So Kon Po</td>
<td>As tennis competition or training venue; for learning the sport concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- As one of the venues for the Hong Kong International Bowls Classic 2016</td>
</tr>
<tr>
<td>Jardine's Lookout Residents' Association</td>
<td>IL 8895, No. 2 Creasy Road, Jardine's Lookout</td>
<td>As tennis competition or training venue; for learning the sport concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td>Kowloon Bowling Green Club</td>
<td>KIL 11217, Austin Road</td>
<td>As lawn bowls competition or training venue; for learning the sport concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- As one of the venues for the Hong Kong International Bowls Classic 2015 and 2017</td>
</tr>
<tr>
<td>Kowloon Cricket Club</td>
<td>KIL 11216, Cox's Road</td>
<td>As cricket, hockey, football, tennis, lawn bowl and squash competition or training venue; for learning the sports concerned, training and holding activities by outside bodies</td>
</tr>
<tr>
<td>Club</td>
<td>Location and Lot Number</td>
<td>Provision of Facilities and Opening-Up of Venues for Organizing Activities by Eligible Outside Bodies</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| Kowloon Tong Club | NKIL 6528, No. 113A Waterloo Road, Kowloon Tong | - Provided venues for major sports event such as the 2017 Hong Kong Cricket Sixes, the Hong Kong International Bowls Classic 2015 and 2017 and the East Asian Squash Championship 2017  
  - As tennis competition or training venue; for learning the sport concerned, training and holding activities by outside bodies |
| Kowloon Tsai Home Owners Association | NKIL 6529, No. 10A Cambridge Road | - As tennis competition or training venue; for learning the sport concerned, training and holding activities by outside bodies |
| Pakistan Association of Hong Kong Limited | KIL 11220, Princess Margaret Road | - As cricket and hockey competition or training venue; for learning the sports concerned, training and holding activities by outside bodies |
| Royal Hong Kong Yacht Club | ML 709, Kellett Island  
RBL 1181, Middle Island  
Lot 341 and Extension in DD 212, Che Keng Tuk | - Provided water sports programmes and activities which were open for public enrolment  
- Co-organized the annual Hong Kong Race Week |
| Victoria Recreation Club | Lot 316 in DD 252, Sai Kung | Provided water sports programmes and activities which were open for public enrolment |
| Yau Yat Chuen Garden City Club | NKIL 6508, 7 Cassia Road, Yau Yat Chuen | As tennis competition or training venue; or learning the sport concerned, training and holding activities by outside bodies |
Annex 3

Government rent payable by lessees of PRLs in the past three years

<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>1. Area Committee of the Hong Kong Sea Cadet Corps</td>
<td>NKIL 6535, Fung Shing Street, Diamond Hill</td>
<td>43,200.0</td>
<td>45,360.0</td>
<td>45,360.0</td>
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<tr>
<td>2. Area Committee of the Hong Kong Sea Cadet Corps</td>
<td>Lot 719 in DD 256, Tsam Chuk Wan, Sai Kung</td>
<td>3,229.2</td>
<td>3,380.4</td>
<td>3,380.4</td>
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<tr>
<td>3. Aberdeen Boat Club Limited</td>
<td>AIL 454, Shum Wan Road, Brick Hill</td>
<td>138,600.0</td>
<td>149,400.0</td>
<td>156,600.0</td>
</tr>
<tr>
<td>4. Boys' and Girls' Clubs Association of Hong Kong</td>
<td>Lot 676 in DD 257, Wong Yi Chau, Sai Kung</td>
<td>41,634.0</td>
<td>43,750.8</td>
<td>43,750.8</td>
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<tr>
<td>5. Catholic Diocese of Hong Kong</td>
<td>Lot 1870 in DD, Cheung Chau</td>
<td>61,578.0</td>
<td>64,627.2</td>
<td>64,627.2</td>
</tr>
<tr>
<td>6. Chinese Recreation Club, Hong Kong</td>
<td>IL 9040, Tung Lo Wan Road</td>
<td>921,600.0</td>
<td>997,200.0</td>
<td>1,047,600.0</td>
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<tr>
<td>7. Clearwater Bay Golf and Country Club</td>
<td>Lot 269 in DD 241, Po Toi O, Sai Kung</td>
<td>1,531,800.0</td>
<td>1,607,400.0</td>
<td>1,656,000.0</td>
</tr>
<tr>
<td>8. Club de Recreio</td>
<td>KIL 11221</td>
<td>255,600.0</td>
<td>297,120.0</td>
<td>342,000.0</td>
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<tr>
<td>9. Craigengower Cricket Club</td>
<td>IL 9031, No. 188 Wong Nai Chung Road</td>
<td>691,200.0</td>
<td>756,000.0</td>
<td>795,600.0</td>
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<tr>
<td>-------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>10. Directors of the Chinese Young Men's Christian Association of Hong Kong</td>
<td>Lot 195 SD5, Mau Wu Tsai, Hang Hau</td>
<td>27,720.0</td>
<td>29,160.0</td>
<td>29,160.0</td>
</tr>
<tr>
<td>11. Directors of the Chinese Young Men's Christian Association of Hong Kong</td>
<td>Lot 76 in DD 254, Wong Yi Chau, Sai Kung</td>
<td>23,184.0</td>
<td>24,508.8</td>
<td>24,508.8</td>
</tr>
<tr>
<td>12. Directors of the Chinese Young Men's Christian Association of Hong Kong</td>
<td>STTL 366, No. 2 On Chun Street, Shatin</td>
<td>601,711.2</td>
<td>632,134.8</td>
<td>642,913.2</td>
</tr>
<tr>
<td>13. Directors of the Young Men's Christian Association of Hong Kong</td>
<td>KIL 11219, Off Gascoigne Road, King's Park</td>
<td>234,000.0</td>
<td>237,600.0</td>
<td>244,800.0</td>
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<tr>
<td>14. Filipino Club</td>
<td>KIL 11222, Wylie Road</td>
<td>61,560.0</td>
<td>67,320.0</td>
<td>71,640.0</td>
</tr>
<tr>
<td>15. Hebe Haven Yacht Club Limited</td>
<td>Lot 1208 in DD 217, Pak Sha Wan</td>
<td>133,200.0</td>
<td>136,800.0</td>
<td>140,400.0</td>
</tr>
<tr>
<td>16. Hong Kong Award for Young People</td>
<td>TPTL 220, Hang Ha Po, Tai Po</td>
<td>34,920.0</td>
<td>36,720.0</td>
<td>36,720.0</td>
</tr>
<tr>
<td>17. Hong Kong Buddhist Association</td>
<td>Lot 175 in DD 4, Cheung Tung Road, Tung Chung, Lantau Island</td>
<td>6,516.0</td>
<td>6,840.0</td>
<td>6,840.0</td>
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</tr>
<tr>
<td>18. Hong Kong, China Rowing Association</td>
<td>STTL 573, Yuen Wo Road, Sha Tin</td>
<td>38,880.0</td>
<td>38,880.0</td>
<td>38,880.0</td>
</tr>
<tr>
<td>19. Hong Kong Chinese Civil Servants' Association</td>
<td>KIL 11224, No. 8 Wylie Road</td>
<td>54,000.0</td>
<td>57,600.0</td>
<td>61,560.0</td>
</tr>
<tr>
<td>20. Hong Kong Country Club</td>
<td>RBL 1195, No. 188 Wong Chuk Hang Road</td>
<td>464,400.0</td>
<td>504,000.0</td>
<td>543,600.0</td>
</tr>
<tr>
<td>21. Hong Kong Cricket Club</td>
<td>IL 9019, No. 137 Wong Nai Chung Gap Road</td>
<td>558,000.0</td>
<td>572,400.0</td>
<td>597,600.0</td>
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<tr>
<td>22. Hong Kong Football Club</td>
<td>IL 9033, No. 3 Sports Road, Happy Valley</td>
<td>1,188,000.0</td>
<td>1,278,000.0</td>
<td>1,346,400.0</td>
</tr>
<tr>
<td>23. Hong Kong Girl Guides Association</td>
<td>IL 9034, No. 141 Wong Nai Chung Gap Road</td>
<td>34,200.0</td>
<td>36,000.0</td>
<td>36,000.0</td>
</tr>
<tr>
<td>24. Hong Kong Girl Guides Association</td>
<td>Lot 1754 in DD 122, Ping Shan, Yuen Long</td>
<td>31,320.0</td>
<td>32,760.0</td>
<td>32,760.0</td>
</tr>
<tr>
<td>25. Hong Kong Girl Guides Association</td>
<td>Lot 2544 in DD 92, Hang Tau Road, Kwu Tung South, Sheung Shui</td>
<td>62,640.0</td>
<td>65,880.0</td>
<td>65,880.0</td>
</tr>
<tr>
<td>26. Hong Kong Girl Guides Association</td>
<td>KIL 10734, Junction of Gascoigne Road and Wylie Road</td>
<td>1,000.0&quot;</td>
<td>1,000.0&quot;</td>
<td>1,000.0&quot;</td>
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<tr>
<td>27. Hong Kong Golf Club</td>
<td>RBL 1194, Deep Water Bay</td>
<td>478,800.0</td>
<td>504,000.0</td>
<td>532,800.0</td>
</tr>
<tr>
<td>28. Hong Kong Golf Club</td>
<td>Lot 942 RP in DD 94, Sheung Shui</td>
<td>2,304,000.0</td>
<td>2,397,600.0</td>
<td>2,534,400.0</td>
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<tr>
<td>29. Hong Kong Gun Club</td>
<td>TWTL 419, Chuen Lung, Tsuen Wan</td>
<td>48,240.0</td>
<td>50,760.0</td>
<td>50,760.0</td>
</tr>
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</tr>
<tr>
<td>30.</td>
<td>Hong Kong Jockey Club</td>
<td>IL 8847, No. 1 Sports Road and Wong Nai Chung Road</td>
<td>10,983,600.0</td>
<td>11,206,800.0</td>
</tr>
<tr>
<td>31.</td>
<td>Hong Kong Model Engineering Club Limited</td>
<td>Lot 2416 in DD 118, Tai Tong, Yuen Long</td>
<td>10,872.0</td>
<td>11,412.0</td>
</tr>
<tr>
<td>32.</td>
<td>Hong Kong Playground Association</td>
<td>Lot 739 in DD 2, Mui Wo, Lantau Island</td>
<td>13,500.0</td>
<td>14,220.0</td>
</tr>
<tr>
<td>33.</td>
<td>Hong Kong Softball Association</td>
<td>KIL 11226, Tin Kwong Road</td>
<td>48,960.0</td>
<td>50,760.0</td>
</tr>
<tr>
<td>34.</td>
<td>Hong Kong Young Women's Christian Association</td>
<td>Lot 752 in DD 332, Cheung Sha, Lantau Island</td>
<td>59,760.0</td>
<td>62,640.0</td>
</tr>
<tr>
<td>35.</td>
<td>Hong Kong Youth Hostels Association</td>
<td>Lot 240 in DD Ngong Ping, Ngong Ping</td>
<td>1,098.0</td>
<td>1,152.0</td>
</tr>
<tr>
<td>36.</td>
<td>Hong Kong Youth Hostels Association</td>
<td>TPTL 133, Tai Mei Tuk</td>
<td>17,280.0</td>
<td>18,000.0</td>
</tr>
<tr>
<td>37.</td>
<td>India Club, Kowloon</td>
<td>KIL 11223, Gascoigne Road</td>
<td>76,680.0</td>
<td>82,800.0</td>
</tr>
<tr>
<td>38.</td>
<td>Indian Recreation Club</td>
<td>IL 9039, No. 63 Caroline Hill Road, So Kon Po</td>
<td>142,200.0</td>
<td>151,200.0</td>
</tr>
<tr>
<td>39.</td>
<td>Jardine's Lookout Residents' Association</td>
<td>IL 8895, No. 2 Creasy Road, Jardine's Lookout</td>
<td>118,800.0</td>
<td>124,200.0</td>
</tr>
<tr>
<td>40.</td>
<td>Kowloon Bowling Green Club</td>
<td>KIL 11217, Austin Road</td>
<td>126,000.0</td>
<td>133,200.0</td>
</tr>
<tr>
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</tr>
<tr>
<td>41.</td>
<td>Kowloon Cricket Club</td>
<td>KIL 11216, Cox's Road</td>
<td>442,800.0</td>
<td>475,200.0</td>
</tr>
<tr>
<td>42.</td>
<td>Kowloon Tong Club</td>
<td>NKIL 6528, No. 113A Waterlo Road, Kowloon Tong</td>
<td>212,400.0</td>
<td>230,400.0</td>
</tr>
<tr>
<td>43.</td>
<td>Kowloon Tsai Home Owners Association</td>
<td>NKIL 6529, No. 10A Cambridge Road</td>
<td>129,600.0</td>
<td>136,800.0</td>
</tr>
<tr>
<td>44.</td>
<td>Mong Kok District Cultural, Recreational &amp; Sports Association Limited</td>
<td>KIL 11165, J/O Ivy Street and Beech Street</td>
<td>76,320.0</td>
<td>80,280.0</td>
</tr>
<tr>
<td>45.</td>
<td>Municipal Services Staff Recreation Club Limited</td>
<td>KIL 11225, Wylie Path, King's Park</td>
<td>45,000.0</td>
<td>46,800.0</td>
</tr>
<tr>
<td>46.</td>
<td>Outward Bound Trust of Hong Kong Limited</td>
<td>Lot 718 in DD 256, Tai Mong Tsai, Sai Kung</td>
<td>115,200.0</td>
<td>120,600.0</td>
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<tr>
<td>47.</td>
<td>Pakistan Association of Hong Kong, Limited</td>
<td>KIL 11220, Princess Margaret Road</td>
<td>37,440.0</td>
<td>39,960.0</td>
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<tr>
<td>48.</td>
<td>Po Leung Kuk</td>
<td>Lot 2419 DD 118, Tai Tong, Yuen Long</td>
<td>280,800.0</td>
<td>295,200.0</td>
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<tr>
<td>49.</td>
<td>Po Leung Kuk</td>
<td>Lot 675 in DD 257, Pak Tam Chung, Sai Kung</td>
<td>214,668.0</td>
<td>224,280.0</td>
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<tr>
<td>50.</td>
<td>Royal Hong Kong Yacht Club</td>
<td>ML 709, Kellett Island</td>
<td>1,000.0&quot;</td>
<td>1,000.0&quot;</td>
</tr>
<tr>
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</tr>
<tr>
<td>51.</td>
<td>Royal Hong Kong Yacht Club</td>
<td>RBL 1181, Middle Island</td>
<td>30,600.0</td>
<td>33,480.0</td>
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<tr>
<td>52.</td>
<td>Royal Hong Kong Yacht Club</td>
<td>Lot 341 and Extension in DD 212, Che Keng Tuk</td>
<td>89,640.0</td>
<td>91,800.0</td>
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<tr>
<td>53.</td>
<td>Scout Association of Hong Kong</td>
<td>NKIL 6530, No. 11 Rutland Quadrant</td>
<td>9,540.0</td>
<td>10,080.0</td>
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<tr>
<td>54.</td>
<td>Scout Association of Hong Kong</td>
<td>Lot 1207 in DD 217, Pak Sha Wan, Sai Kung</td>
<td>29,001.6</td>
<td>30,369.6</td>
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<tr>
<td>55.</td>
<td>Scout Association of Hong Kong</td>
<td>STTL 592, Sha Tin</td>
<td>3,924.0</td>
<td>4,104.0</td>
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<tr>
<td>56.</td>
<td>Scout Association of Hong Kong</td>
<td>IL 8961, Mansion Street, North Point</td>
<td>6,912.0</td>
<td>7,272.0</td>
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<td>57.</td>
<td>Scout Association of Hong Kong</td>
<td>Lot 131 in DD 60, Au Tau, Yuen Long</td>
<td>6,192.0</td>
<td>6,516.0</td>
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<td>58.</td>
<td>Scout Association of Hong Kong</td>
<td>TPTL 190, Tung Tsz, Tai Po</td>
<td>46,440.0</td>
<td>48,600.0</td>
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<tr>
<td>59.</td>
<td>Scout Association of Hong Kong and Hong Kong Girl Guides Association</td>
<td>KCTL 511, No. 308 Wo Yi Hop Road, Kwai Chung</td>
<td>88,920.0</td>
<td>93,600.0</td>
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<tr>
<td>60.</td>
<td>Scout Association of Hong Kong and Hong Kong Girl Guides Association</td>
<td>STTL 591, Shui Chuen Au Street, Sha Tin</td>
<td>48,420.0</td>
<td>51,300.0</td>
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<tr>
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</tr>
<tr>
<td>South China Athletic Association</td>
<td>IL 9041, No. 88 Caroline Hill Road, So Kon Po</td>
<td>1,818,000.0</td>
<td>1,994,400.0</td>
<td>2,098,800.0</td>
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<tr>
<td>South China Athletic Association</td>
<td>KIL 11218, Wylie Path</td>
<td>91,800.0</td>
<td>95,400.0</td>
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<tr>
<td>Tai Po Sports Association Limited</td>
<td>TPTL 216, On Cheung Road, Tai Po</td>
<td>194,400.0</td>
<td>203,400.0</td>
<td>214,200.0</td>
</tr>
<tr>
<td>The Post Office and Cable &amp; Wireless Recreation Club Limited</td>
<td>IL 8597 RP, No. 108 Caroline Hill Road, So Kon Po</td>
<td>61.0#</td>
<td>61.0#</td>
<td>61.0#</td>
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<tr>
<td>Victoria Recreation Club</td>
<td>Lot 316 in DD 252, Sai Kung</td>
<td>27,360.0</td>
<td>29,520.0</td>
<td>31,320.0</td>
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<tr>
<td>Yau Yat Chuen Garden City Club Limited</td>
<td>NKIL 6508, No. 7 Cassia Road, Yau Yat Chuen</td>
<td>439,200.0</td>
<td>482,400.0</td>
<td>507,600.0</td>
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<td>Yuen Long District Sports Association Limited</td>
<td>YLTL 520, Yuen Long</td>
<td>166,320.0</td>
<td>173,520.0</td>
<td>194,760.0</td>
</tr>
</tbody>
</table>

Note:

# The Government rent payable is spelt out in exact amount in the lease

**Implementation of the clean recycling policy**

the Plan include gradually and systematically reducing the types and quantities of imported solid waste, raising the threshold for importing solid waste, and banning the import of household waste plastics, unsorted waste paper, etc. To tie in with the Plan, the Environmental Protection Department ("EPD") has launched a new round of clean recycling publicity and public education campaign earlier which focuses on educating the public to put "three types of waste paper and two types of waste plastic containers" into the waste separation bins placed in residences and workplaces, as well as those on roadside. The three types of waste paper include paperboard, newspapers and office papers, and the two types of waste plastic containers include plastic containers for beverages and those for personal care products. EPD calls on the public to properly sort and tie up waste paper and rinse plastic containers before putting them into waste separation bins. Other types of waste paper and waste plastics should no longer be put into waste separation bins. Regarding the implementation of the clean recycling policy, will the Government inform this Council:

(1) of the respective numbers of rubbish bins and waste separation bins currently placed in public areas, with a breakdown by District Council district; (i) the quantities of the various types of waste collected through such waste separation bins, and among them, the respective quantities of those (ii) recycled and (iii) transferred to landfills/incinerators for disposal, in each of the past 12 months, with a breakdown by type of waste (including the waste that come under the category of three types of waste paper and two types of waste plastic containers and otherwise);

(2) whether, before the introduction of the clean recycling policy, the authorities had made reference to the experience of overseas countries or places in implementing relevant policies; if so, of the details;

(3) if the authorities have studied whether, after the implementation of the clean recycling policy, channels will be available for the recovery of waste that do not come under the category of three types of waste paper and two types of waste plastic containers; if recovery channels will be available, of the authorities' measures to ensure that such waste will continue to be recovered for the purpose of recycling; if no recovery channels will be available, whether transfer
to landfills for disposal is the only means to dispose of waste that do not come under the category of three types of waste paper and two types of waste plastic containers;

(4) whether the authorities have issued practice guidelines to recyclers so as to ensure that waste exported from Hong Kong to the Mainland will meet the new standards; if so, of the details;

(5) whether the authorities have plans to update the design of the existing waste separation bins and to provide rinsing facilities in the vicinity of the waste separation bins, so as to facilitate the public to properly rinse the two types of plastic containers before putting them into the bins; if so, of the details; and

(6) whether the authorities have (i) requested the management units and staff of premises (including public housing estates, private residential buildings, as well as commercial and industrial buildings) provided with waste separation bins to adopt measures that tie in with the implementation of the clean recycling policy, and (ii) made recommendations to the such units and staff regarding recycling facilities and the relevant publicity and education work; if so, of the details?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, according to the Implementation Plan on Advancing Reform of the Administration System on Import of Solid Wastes through Prohibiting Import of Foreign Rubbish promulgated by the General Office of the State Council in July 2017, the Mainland will progressively tighten its import requirements on recyclables starting from January 2018, including a ban on the import of household waste plastics and unsorted waste paper. Given that currently over 90% of locally generated waste paper and waste plastics are exported to the Mainland, in the light of these new requirements, we have to induce changes including behavioural ones in source separation of recyclables. This will not only help ensure that the three types of waste paper (namely paperboard, newspaper and office paper) recovered in Hong Kong and accepted by the Mainland for import will have an impurity rate not exceeding the new standard of 0.5%, but also facilitate the turning of waste plastics into raw materials, with a view to meeting the latest Mainland requirements. Taking into account the above, the Government is striving to encourage participation by all in waste reduction at source, source
separation of waste and clean recycling so as to reduce the chance of recyclables being contaminated or mixed with large amount of materials that are not suitable for recycling. Such contaminants will add difficulty to the recycling process or even render the whole batch of recyclables eventually discarded by landfill disposal. Meanwhile, the Government has been supporting the recycling industry in various aspects to enhance their capability and efficiency, thereby adding value to the industry and ensuring more stable and diverse outlets for locally generated recyclables.

Most recyclables locally recovered are waste paper and waste plastics generated by the commercial and industrial ("C&I") sectors. Generally speaking, these recyclables are bulk in volume and centralized, with little variety in their materials, hence more cost-effective in terms of the subsequent recycling process. C&I sectors should thus continue to make direct arrangements with recyclers for handling these recyclables. For recyclables generated by the domestic sector, a relatively high proportion of the three types of paper and two types of plastic bottles (namely plastic beverage bottles and plastic bottles for personal care products) are disposed of at landfills. To engage the public to cope with the new challenges, the Environmental Protection Department ("EPD") will roll out a new round of publicity and public education campaign to promote waste reduction at source and clean recycling, with focus on encouraging the general public to practise source separation and clean recycling under the theme "clean recycling of three types of paper and priority recovery of two types of plastic bottles". Overall speaking, it is hoped that some 2 000 tonnes of the three types of paper can continued to be recovered daily, and the collection of waste plastic bottles, with current recovery rate of less than 10%, can also be enhanced. While promoting waste reduction at source, we also call for the public to step up efforts in putting the three types of paper and the two types of plastic bottles for priority recovery into waste separation bins, keep them as clean as possible so as to promote the subsequent recycling process and identification of outlets.

At the community level, we will continue to press ahead with waste reduction at source. A waste reduction campaign on "Dump Less, Save More" has just been kicked off to instil the culture of "Use Less, Waste Less". The municipal solid waste ("MSW") charging, to be implemented towards the end of 2019 at the earliest, will produce more financial incentives that will drive behavioural changes among our citizens, encouraging them to minimize waste generation and thereby reducing overall waste disposal.
My reply to Mr KWOK's question is as follows:

(1) The Government currently provides some 2,800 sets of waste separation bins in public places (such as pavements, public transport interchanges, refuse collection points, parks, leisure and cultural facilities, etc not including country parks). The distribution of waste separation bins in public places among the 18 districts as at December 2016 is at Annex. Up to December 2016, these bins in the 18 districts collected about 400 tonnes of waste paper, 700 tonnes of waste plastics and 40 tonnes of waste metal, and around half of the collected materials (mainly three types of paper and two types of plastic bottles) became recyclables after segregation. The Government did not compile any statistics on the recyclables so collected and the disposable materials by month, by district or by the three types of paper and two types of plastic bottles. The figures in 2017 are still being compiled.

In addition, the some 1,500 sets of waste separation bins placed in country parks by the Agriculture, Fisheries and Conservation Department ("AFCD") collected in 2016 a total of about 18 tonnes of recyclables, including waste paper, waste plastics and waste metal. To tie in with the "Take Your Litter Home" public education programme launched in country parks since 2015, AFCD also removed all litter bins and waste separation bins along the hiking trails in country parks in late 2017, thereby encouraging the public to take their litter home after visiting country parks.

(2) The Government has been monitoring the latest market situation of recyclables and maintaining contact with recyclers to ensure that the Government's publicity strategies on clean recycling and other industry supportive measures, such as the Recycling Fund, will be adjusted in a timely manner to better meet the needs of our community and the recycling industry. We understand that other countries or regions, based on the latest development of recyclables market and their own actual circumstances, are also proactively exploring various initiatives and strategies, including stepping up waste reduction at source, enhancing the quality of recyclables, and encouraging domestic industries to absorb part of the locally generated recyclables more effectively. The directions of these initiatives are broadly similar to ours.
(3) As above mentioned, C&I sectors should continue to make direct arrangements with recyclers for handling waste paper and waste plastics generated by these sources.

With respect to the Mainland market, due to the more stringent requirements for import of recyclables, waste paper recovered in Hong Kong, other than the three types of paper, is not suitable for recycling and exporting to the Mainland currently. That said, books and magazines having their laminated or waxed covers and inner pages torn off can generally be recycled as newspaper. The quantity of the three types of paper recovered roughly represents 80% of all waste paper recovered. Moreover, for those waste paper disposed of at landfills, about half of them belong to the three types of paper. If we can enhance their separation and recycling, the local recovery rate of paper can be increased.

Certain types of waste plastics are of low recycling efficiency. Nevertheless, waste plastic bottles are more common and have a higher recycling value, but their current recovery rate is rather low, roughly speaking about one out of ten plastic bottles is separated and recycled by the public. The new round of clean recycling publicity campaign launched by the Government aims to, amongst others, enhance the recovery rate at various collection points of plastic bottles from household sources and increase the possibility of securing outlets for them. If the public store some clean and separated suitable waste plastics that are not bottle-shaped, and provided that these waste plastics have feasible outlets, the public may consider delivering them to Community Green Stations ("CGSs") which will accumulate them and endeavour to identify suitable recyclers for proper onward processing and conversion into resources.

By organizing public education activities such as workshops, CGSs also help to disseminate relevant information and educate the public on how to practise clean recycling with priority on three types of paper and two types of plastic bottles.
C&I sectors should continue to make direct arrangements with recyclers for their waste plastics, which represent the majority of waste plastics recovered.

(4) The Mainland authorities have promulgated new standards for recyclables to be imported to the Mainland. EPD has all along maintained close liaison with recyclers and other relevant testing bodies to help enhance their understanding of the latest requirements for due compliance.

(5) The Steering Group on the Modification of Recycling and Refuse Collection Facilities in Public Places ("the Steering Group") set up by the Environment Bureau in February 2016 is currently reviewing the designs of waste separation bins in public places and will advise on new designs. The Steering Group has thus commissioned a consultancy study under which the consultant will set the design direction and identify matters of concern, taking account of the latest recycling arrangements and the views collected from various stakeholders via a public engagement exercise.

(6) EPD has maintained frequent communication with housing estates and residential buildings that have joined the Programme on Source Separation of Waste, property management companies and the Housing Department, to provide assistance in source separation of waste and clean recycling. On publicity and public education, we will disseminate latest information on clean recycling via channels such as Announcements of Public Interest, CGSs, EPD website on Hong Kong Waste Reduction, the "Waste Less" app and other social media.

In addition, a new outreach team will be set up under EPD to help drive behavioural change comprehensively and directly in the community towards better and more widespread waste reduction and recycling practices. Through strengthened field support, one of the team's priority tasks is to assist property management companies and residents in practising proper source separation of waste and clean recycling, seeking feasible outlets for recyclables and implementing the forthcoming quantity-based MSW charging.
Annex

Numbers of Waste Recycling Bins in Public Places\(^{(1)}\) as at December 2016

<table>
<thead>
<tr>
<th>District</th>
<th>Number of Recycling Bins (set)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong Kong Island</td>
<td></td>
</tr>
<tr>
<td>Eastern</td>
<td>107</td>
</tr>
<tr>
<td>Southern</td>
<td>139</td>
</tr>
<tr>
<td>Wan Chai</td>
<td>164</td>
</tr>
<tr>
<td>Central and Western</td>
<td>195</td>
</tr>
<tr>
<td>Kowloon</td>
<td></td>
</tr>
<tr>
<td>Kowloon City</td>
<td>121</td>
</tr>
<tr>
<td>Yau Tsim Mong</td>
<td>177</td>
</tr>
<tr>
<td>Sham Shui Po</td>
<td>95</td>
</tr>
<tr>
<td>Wong Tai Sin</td>
<td>69</td>
</tr>
<tr>
<td>Kwun Tong</td>
<td>85</td>
</tr>
<tr>
<td>New Territories</td>
<td></td>
</tr>
<tr>
<td>Tai Po</td>
<td>194</td>
</tr>
<tr>
<td>Tuen Mun</td>
<td>157</td>
</tr>
<tr>
<td>Yuen Long</td>
<td>285</td>
</tr>
<tr>
<td>North</td>
<td>208</td>
</tr>
<tr>
<td>Sai Kung</td>
<td>270</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>144</td>
</tr>
<tr>
<td>Tsuen Wan</td>
<td>124</td>
</tr>
<tr>
<td>Kwai Tsing</td>
<td>86</td>
</tr>
<tr>
<td>Islands</td>
<td>153</td>
</tr>
<tr>
<td>Total</td>
<td>2 773</td>
</tr>
</tbody>
</table>

Note:

(1) The public places include pavements, public transport interchanges, refuse collection points, parks, leisure and cultural facilities, etc and do not include country parks.

Measures to facilitate the use of gerontechnology products by elderly service units

15. **MS ALICE MAK** (in Chinese): President, the Government announced in the Policy Address published in October 2017 that it would earmark $1 billion for setting up a fund to subsidize elderly service units to trial use and procure
technology products, in order to promote gerontechnology for improving the quality of life of elderly persons and enhancing the quality of elderly services by reducing the burden and pressure of carers and care staff. However, I have learnt that the Social Welfare Department recently issued a warning to a residential care home for the elderly ("RCHE"), which had used a computerized system for drug dispensing and management, because the way in which drugs were stored and prepared under the system was in violation of the relevant requirements under the Code of Practice for Residential Care Homes (Elderly Persons) and the Operational Manual on Drug Management in Residential Care Homes for the Elderly 2007. In this connection, will the Government inform this Council:

(1) of the technological, financial and policy support provided by the authorities at present to those elderly service units intending to use or trial use gerontechnological products;

(2) whether the authorities conducted reviews in the past two years to see if the requirements concerning the daily operation of RCHEs under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459), the Code of Practice for Residential Care Homes (Elderly Persons) and the Operational Manual on Drug Management in Residential Care Homes for the Elderly still suited the current circumstances, including whether such requirements had impeded the use of gerontechnological products by RCHEs; if they did not conduct any review, whether they will conduct such reviews expeditiously; if they did, of the progress and outcome, including whether outdated requirements impeding the use of gerontechnological products by RCHEs had been found; if so, whether the authorities will, prior to amending such requirements, approve the use of the relevant products on a discretionary basis in light of the actual circumstances; and

(3) whether the Innovation and Technology Bureau, the Labour and Welfare Bureau and the Social Welfare Department will set up a joint working group to promote the research, development and application of gerontechnological products suitable for use by local elderly service units, and assist such units in tackling the problems encountered in using such products?
SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, gerontechnology amalgamates elderly services and innovative technology. It can help improve the lives of elderly persons as well as reduce the burden and stress of carers and care staff. Developing gerontechnology is an important strategy for addressing the ageing society.

In consultation with the Innovation and Technology Bureau, my reply to the Member's question is as follows:

(1) At present, non-governmental organizations ("NGOs") subvented by the Social Welfare Department ("SWD") can flexibly use the block grant set aside annually from the Lotteries Fund to procure or replenish furniture and equipment each costing less than $50,000 on the "Reference Furniture and Equipment List" (including gerontechnology products) for all of their subvented service units (including elderly service units). In addition, NGOs can apply to SWD direct for the purchase of furniture and equipment costing more than $50,000 each.

SWD has also set up a $1 billion Social Welfare Development Fund which is being implemented in three phases from 2010-2011 to 2018-2019. One of the subsidized areas is to upgrade the operational systems of NGOs subvented by SWD. The information technology projects covered mainly include four categories, i.e. service improvements (such as drug management), setting up of websites, human resource management and financial management.

(2) SWD regulates residential care homes for the elderly ("RCHEs") by enforcing various requirements under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) ("the Ordinance"), its subsidiary legislation and the Code of Practice for Residential Care Homes (Elderly Persons) ("the CoP"). Among them, the CoP sets out detailed requirements on storage and management of drugs in RCHEs. In addition, RCHEs have to comply with the Operational Manual on Drug Management in RCHEs (the Operational Manual on Drug Management) jointly formulated by the Department of Health ("DH"), the Hospital Authority ("HA") and SWD. The Government encourages RCHEs to use suitable technology products, but any new products or applied technologies must comply with
prevailing regulatory requirements (including those on storage and management of drugs).

The Government reviews relevant codes and guidelines from time to time having regard to practical needs in order to ensure the safety of residents. SWD set up a working group in June 2017, with members comprising stakeholders from different sectors, to put forth concrete suggestions for the amendments of the Ordinance, its subsidiary legislation and the CoP. Separately, SWD is currently reviewing, in collaboration with DH and HA, the Operational Manual on Drug Management with a view to providing clearer guidelines for the operators and care staff of RCHEs. SWD will consider introducing guidelines relating to use of technology in revising the CoP and the Operational Manual on Drug Management.

(3) Through different programmes under the Innovation and Technology Fund ("ITF"), the Innovation and Technology Commission has been subsidizing and encouraging universities, local public research institutions (e.g. research and development ("R&D") centres) and private companies to conduct R&D projects in various technology areas and conduct trials of their R&D outcomes in the public sector, including projects involving gerontechnology. For instance, the Government provides additional funding for ITF funded R&D projects as well as the incubatees of the Hong Kong Science and Technology Parks Corporation and Cyberport through the Public Sector Trial Scheme for the production of prototypes/samples for trials in the public sector (e.g. elderly service units subvented by SWD). In addition, the ITF for Better Living launched by the Innovation and Technology Bureau supports eligible organizations in applying innovation and technology to improve people's daily life or address the needs of specific community groups (including elderly persons).

As announced in the Chief Executive's 2017 Policy Address, the Government will earmark $1 billion for a fund to subsidize elderly and rehabilitation service units to try out and procure technology products, so as to improve the quality of life of service users as well as reduce the burden and pressure on care staff and carers. The new fund will be named as the ITF for Application in Elderly and Rehabilitation Care. Eligible elderly and rehabilitation service
units can apply to the fund for subsidies to procure or rent technology products or try out newly developed technology products. The grant may cover the cost of staff training on how to use the relevant technology products and the cost of warranty/maintenance of the products for a maximum of five years. The Government plans to launch the fund in the fourth quarter of 2018. At the same time, SWD will invite relevant organizations and institutions as working partners to promote advanced technology products among the sector. SWD will also commission the Hong Kong Council of Social Service ("HKCSS") to promote to the sector the application of innovative technology in long-term care services. HKCSS will coordinate and facilitate experience exchange and partnership among various stakeholders.

The Government will continue to promote the development of gerontechnology through communication and collaboration among the bureaux and departments concerned.

Development of smart traffic light systems

16. **DR KWOK KA-KI** (in Chinese): President, the Government indicated in reply to a question raised by a Member of this Council on 7 June last year that the Transport Department was currently conducting a pilot scheme to test a video pedestrian detection device (i.e. smart traffic lights) at junctions with different traffic conditions and road environment in Hong Kong. Regarding the development of smart traffic light systems, will the Government inform this Council:

(1) of the number and locations of the junctions currently installed with smart traffic lights under the pilot scheme, and the expenditure incurred so far;

(2) how the authorities will assess the cost-effectiveness of the pilot scheme; whether there are specific assessment criteria; if so, whether such criteria include if the device can reduce (i) the waiting time of pedestrians in the waiting zones and (ii) unnecessary stopping of vehicles; if so, of the details; if not, the reasons for that; and
(3) whether it has studied the relevant experience of overseas places such as Singapore with a view to improving the scheme for the development of the smart traffic light systems in Hong Kong; if so, of the details; if not, whether the authorities will conduct the study?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Government has been striving to create a pedestrian-friendly environment and encouraging citizens to walk more, with a view to promoting Hong Kong to become a walkable city. To improve the road and pedestrian environment of the signal-controlled junctions, the Transport Department ("TD") has launched a pilot scheme on video pedestrian detection devices (the "pilot scheme") by installing video pedestrian detection devices at the selected signal-controlled junctions. Once detecting the presence of pedestrians in the waiting zone, the device will activate the pedestrian green phase without the pedestrians having to press any button. If the pedestrians leave the waiting zone before the activation of the green phase, the scheduled pedestrian green signal will be cancelled automatically. It is expected that the device will help reduce the waiting time for pedestrians to cross the junctions and unnecessary stopping for vehicles, thereby enhancing the operational efficiency of the signal-controlled junctions.

My reply to the various parts of Dr KWOK Ka-ki's question is as follows:

(1) At present, TD has installed video pedestrian detection devices at five junctions under the pilot scheme, namely the intersection of Hoi Bun Road and Lai Yip Street junction in Kwun Tong, the intersection of Link Road and Broadwood Road in Happy Valley, the junction near the transport interchange in Sham Mong Road in Cheung Sha Wan, the pedestrian crossing at Po Ning Road near Tseung Kwan O Hospital in Tseung Kwan O, and the pedestrian crossing facing Ebenezer School & Home for the Visually Impaired in Pok Fu Lam. The expenditure involved in the pilot scheme is about HK$900,000.

(2) TD has conducted a preliminary review earlier on the effectiveness of the video pedestrian detection devices. The review results showed that the device can effectively reduce the waiting time for pedestrians to cross the junctions. TD will subsequently conduct a more comprehensive on-site survey on the pedestrian and traffic
flow of all junctions under the pilot scheme. TD will assess the extent to which the waiting time for pedestrians is saved, and the number of times the unnecessary stopping for vehicles is reduced, so as to obtain further data to assess whether the operational efficiency of signal-controlled junctions has been enhanced as a whole after installation of the video pedestrian detection device. This will help TD select suitable signal-controlled junctions to install video pedestrian detection devices in the future.

(3) In launching the pilot scheme, TD has made reference to overseas experience (including that of Singapore and the United Kingdom) in their use of video detection devices to manage traffic. TD will continue to make reference to overseas experience for further developing smart traffic light systems. TD will install more sensors at selected junctions for further tests of the real-time monitoring of the pedestrians and vehicular flows crossing the junctions, the tailbacks, etc, with a view to using smart systems more effectively in enhancing traffic management and providing a pedestrian-friendly environment.

Subsidies for the elderly

17. **MR WU CHI-WAI** (in Chinese): President, the Government announced in the Policy Address delivered in January last year that the asset limits for applicants of the Old Age Living Allowance ("OALA") would be relaxed ("Measure 1") and a Higher OALA would be introduced ("Measure 2"). While Measure 1 has been implemented since May last year, Measure 2 will be implemented in the middle of this year after the Social Welfare Department ("SWD") has enhanced its computer system. On the other hand, the Community Care Fund has, since 3 July last year, lowered the age threshold for the beneficiaries under the Elderly Dental Assistance Programme from 75 to 70 years old. In this connection, will the Government inform this Council:

(1) of the progress of the work of SWD to enhance its computer system for implementing Measure 2, and the exact date for the implementation of the Measure;
(2) among the elderly persons who were receiving OALA prior to the implementation of Measure 1, of the number of those, in the Auto-conversion Phase, who will meet the eligibility criteria under Measure 2 for receiving Higher OALA, based on SWD’s estimation;

(3) whether it has plans to review afresh the asset and income limits for applicants of OALA; if so, of the details; if not, the reasons for that;

(4) of the number of applications received from 3 July to 31 December last year under the Elderly Dental Assistance Programme, and how that number compares with that in the preceding half year; whether it will consider further lowering the age threshold for the beneficiaries under the Programme to 65 years old, so as to benefit more elderly persons; and

(5) given that the Kwai Tsing District Council launched in November 2015 and October 2014 respectively two projects under the Signature Project Scheme which targeted at the residents within the district, namely the (i) dental care and (ii) optometric/ocular examination projects, whether the Government will make reference to the arrangements of these two projects and implement similar projects in all districts across the territory; if so, of the details?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, having consulted relevant bureaux and departments, my reply is as follows:

(1) The new Computerised Social Security System ("the System") of the Social Welfare Department ("SWD") commenced operation in early January 2018. The system supports the various existing social security programmes (including the Comprehensive Social Security Assistance Scheme, the existing Old Age Living Allowance ("OALA"; which will be renamed as "Normal OALA"), the Old Age Allowance, etc.). SWD is conducting further system enhancements and testing, and other preparations (e.g. publicity and finalizing implementation procedures) so as to implement the Higher OALA.

SWD anticipates rolling out the Higher OALA in June 2018, with retrospective effect from 1 May 2017. The Government plans to
brief the Panel on Welfare Services of the Legislative Council on the implementation details of the Higher OALA in February 2018.

(2) and (3)

SWD has relaxed the asset limits of the Normal OALA\(^{(1)}\) on 1 May 2017 to benefit more elderly persons with financial needs. SWD also plans to implement the Higher OALA in June 2018. The relevant amounts (i.e. the rates of allowances, and the monthly income and asset limits) of the two allowances mentioned above will be adjusted annually on 1 February in accordance with the established mechanism. On 1 February 2018, SWD will make the following adjustments to the two allowances:

<table>
<thead>
<tr>
<th></th>
<th>Monthly allowance</th>
<th>Asset limits</th>
<th>Monthly income limits</th>
</tr>
</thead>
</table>
| Normal OALA | Current level     | $2,565               | Elderly singletons: $329,000
|          |                   |                      | Elderly couples: $499,000
|          | Level with effect from 1 February 2018 | $2,600 | Elderly singletons: $334,000
|          |                   |                      | Elderly couples: $506,000
| Higher OALA | Current level     | $3,435               | Elderly singletons: $144,000
|          |                   |                      | Elderly couples: $218,000
|          | Level with effect from 1 February 2018 | $3,485 | Elderly singletons: $146,000
|          |                   |                      | Elderly couples: $221,000

As at end-December 2017, there were about 470 000 Normal OALA recipients. According to latest records (including the asset

\(^{(1)}\) The asset limit for elderly singletons was raised from $225,000 to $329,000; and that for elderly couples was raised from $341,000 to $499,000.
information declared by the Normal OALA recipients), it is estimated that about 80% of the existing Normal OALA recipients would be eligible for the Higher OALA.

(4) According to the information provided by the Food and Health Bureau, the Community Care Fund ("CCF") launched the Elderly Dental Assistance Programme on 24 September 2012 to provide free removable dentures and related dental services (including x-ray examination, scaling and polishing, fillings as well as tooth extractions) for low-income elderly persons who are users of the home care service or home help service schemes subvented by SWD. To enable more financially needy elderly persons to benefit from the programme, it was expanded in phases on 1 September 2015, 3 October 2016 and 3 July 2017 to cover elderly persons who are OALA recipients aged 80 or above, 75 or above and 70 or above respectively. The programme received 11,261 applications from 3 July to 31 December 2017 and 4,881 applications for its preceding half year from 1 January to 2 July 2017.

The Food and Health Bureau advised that, having regard to the progress of implementation and the overall situation, the programme will be further expanded to cover OALA recipients aged 65 or above at an appropriate juncture.

(5) According to information provided by the Home Affairs Department, as stated in the 2013 Policy Address, the Government earmarked a one-off allocation of $100 million for each district to initiate one to two projects under the Signature Project Scheme ("SPS") to address local needs. All SPS projects are advocated and decided by district councils ("DCs"). DCs are also responsible for spearheading their implementation, including the conduct of district consultations, preparing implementation plans, monitoring project progress and assessing project effectiveness.

The Kwai Tsing DC adopted "enhancement of community health care services" as the theme of its SPS. The Kwai Tsing DC had conducted extensive consultations with local residents and
organizations and open discussions before taking forward the "Enhancement of Community Healthcare". The major services included the provision of ocular health care service and dental care service to eligible residents in the Kwai Tsing District, which were launched in January 2015 and March 2016 respectively. Other services included seasonal influenza vaccination, health education seminars, etc. The services have been well-received by local residents since their launch.

Separately, according to information provided by the Food and Health Bureau, general dental care services are mainly provided by the private sector and non-governmental organizations. When allocating limited public resources, the Government has to accord priority to emergency dental services for the public, and take care of those people with special needs, including elderly persons with financial difficulties. As such, the Government has in recent years launched a series of initiatives to provide dental care support to low-income elderly persons with special needs, including the Outreach Dental Care Programme for the Elderly and the CCF Elderly Dental Assistance Programme mentioned in part (4) above.

The 18 Elderly Health Centres established under the Department of Health provide integrated primary health care services including health assessment, health counselling, medical treatment and health education for elderly members aged 65 or above. The clinical services include eye and vision assessment as well as provision of relevant health advice. The Elderly Health Centres will refer elderly persons with eye problems to specialist outpatient clinics of the Hospital Authority for follow-up as necessary.

The Food and Health Bureau launched the Elderly Health Care Voucher ("EHV") Pilot Scheme in 2009 to subsidize Hong Kong elderly persons aged 70 or above to use private primary care services. The EHV Scheme enables elderly persons to choose private health care services that best suit their needs, including dental and optometric services. Since 2014, the EHV Scheme has been converted into a recurrent programme and the annual voucher
amount for each eligible elderly person has been increased to $2,000. Moreover, the eligibility age for the EHV Scheme has been lowered from 70 to 65 since 1 July 2017 to benefit more elderly persons.

In addition, the Food and Health Bureau is proactively preparing for the launch of the District Health Centre Pilot Project in the Kwai Tsing District in two years' time. The planned district health centre, with funding from the Government, will enhance public awareness of disease prevention and its ability in self-management of health through public-private partnership, and provide support for the chronically ill. Having regard to the needs of the district, the centre will make use of local networks to procure services from service providers and allied health professionals in the district.

Continuing education in Hong Kong

18. **MR JIMMY NG** (in Chinese): President, some survey findings showed that the continuing education participation rate of persons aged between 18 and 64 in Hong Kong in 2013 was 25.4%, which was lower than the 28.1% of 2005 and far below the relevant rates in Singapore, the United States and Canada (which were 55%, 55% and 54% respectively) in 2016. On the other hand, the number of claims made to the Continuing Education Fund ("CEF") for reimbursement of tuition fees declined continuously in the past decade, falling from 73,138 claims in 2006-2007 to 19,912 claims in 2016-2017. In this connection, will the Government inform this Council:

(1) whether it has explored the reasons for the continuous decline in the past decade in the number of claims made to CEF for reimbursement of tuition fees; if so, of the outcome; if not, the reasons for that; of the Government's plans for promoting CEF in the coming three years;

(2) as the cumulative total amount of tuition fees reimbursable by CEF which a claimant is entitled during his lifetime is only $10,000 and that ceiling has never been adjusted since CEF's inception in 2002, whether the Government will consider raising that ceiling according
to the rate of increase in commodity prices over the past 15 years; if so, of the details; if not, the reasons for that;

(3) given that the tuition fees of quite a number of diploma and higher diploma courses are about $30,000 to $40,000, whether the Government will study raising the amount of CEF's subsidy for persons studying such courses; if so, of the details; if not, the reasons for that;

(4) as some members of the public have expressed that web-based distance learning courses (including massive open online courses) are more flexible as they can pursue continuing education according to their own timetable and pace, whether the Government will consider adding this type of courses to the Reimbursable Courses List of CEF; if so, of the details; if not, the reasons for that; and

(5) given that the Singaporean Government has, in respect of employer-sponsored training courses, provided employers with (i) subsidies of 50% to 95% of the course fees and (ii) absentee payroll funding, whether the Government will consider adopting similar practices so as to encourage employers, through economic incentives, to allow their employees to pursue continuing education; if so, of the details; if not, the reasons for that?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, Continuing Education Fund ("CEF") was established in 2002 to encourage local workers to pursue further education by providing adults keen on further education with subsidies for continuing education and training. Since its establishment, a cumulative total of about 770,000 Hong Kong residents have already opened CEF accounts. The Chief Executive announced in her 2017 Policy Address last October that the Government will inject additional funding into CEF and enhance its operation. Upon completion of a consultancy study, user survey and review on the operation of CEF, the Government has earlier announced a series of proposed enhancement measures, including the relaxation of the upper age limit for CEF applicants to 70, the expansion of the scope of CEF courses, streamlining the administrative arrangements including the lifting of restrictions on validity
period and maximum number of reimbursement claims, and enhancement of the quality assurance of CEF courses and safeguard for applicants. My reply to the Member’s question is as follows:

(1) We note that, over the 15 years since the establishment of CEF, due to various reasons, including personal factors (such as the length of working hours, interest in pursuing further education, etc.), trends of the labour market, and the courses offered by training institutions, the annual numbers of reimbursement applications received under CEF had slowed down in recent years after reaching the peak in the midway. We anticipate that the proposed enhancement measures after review, including the increased choices of CEF courses, enhanced flexibility for applying CEF and the relaxed upper age limit for eligible applicants, etc., could attract more residents to apply for subsidies and promote continuing education. Moreover, to tie in with the implementation of various measures enhancing the operation of CEF, the Office of CEF will continue to step up publicity through different channels to encourage the public to apply for CEF to pursue further education. Members of the public can also obtain information on CEF through the promotional channels of the training institutions providing CEF courses.

(2) The Government has earlier briefed respective stakeholders (including the Panel on Manpower of the Legislative Council) on the review results and the proposed enhancement measures of CEF, where we received many views including different suggestions on how the subsidy ceiling of CEF should be raised. We take note of the relevant views, and will consider the suggestions carefully.

(3) To avoid differential or even unfair treatment to learners of different courses, we think that it is not appropriate to set different subsidy amounts on certain specific courses. As a matter of fact, apart from CEF, the Government has been providing a number of subsidy schemes for specific trades or purposes to encourage the public to pursue continuing education. The general subsidizing principle of CEF should be to avoid overlapping with those schemes.
For example, in order to further encourage continuing education, the Education Bureau has implemented the Pilot Subsidy Scheme for Students of Professional Part-time Programmes ("the Pilot Scheme") to provide tuition fee subsidy for three cohorts of students admitted from the 2016-2017 Academic Year ("AY") to designated professional part-time programmes offered by the Vocational Training Council, covering programmes in the disciplines of construction, engineering and technology. The Pilot Scheme aims at encouraging working adults to pursue higher qualifications which help enhance their upward mobility. Under the Pilot Scheme, successful applicants will be refunded 60% of the tuition fees of eligible programmes, subject to a maximum of $45,000 per person. Applicants may apply for fee refund for not more than two programmes under the scheme. A total of 1,562 eligible students were benefited from the Pilot Scheme in 2016-2017 AY.

(4) To safeguard the prudent use of public money, the subsidies disbursed by CEF are subject to appropriate regulation. Earlier when we started CEF review in considering how the scope of CEF courses should be expanded, the principle of ascertaining that the institutions providing courses are located in Hong Kong had been confirmed, with a view to implementing the necessary regulations to assure the course quality and safeguard the interests of learners. The current proposed enhancement measures of CEF include the expansion of the scope of CEF courses to all courses registered under the Qualifications Register ("QR"), in order to meet the changing social and vocational needs and the long term development of Hong Kong. To be registered on QR, training institutions and relevant courses must go through the quality assurance procedures conducted by the Hong Kong Council for Accreditation of Academic and Vocational Qualifications or universities with self-accrediting status. At present, online learning programmes provided by universities with self-accrediting status can already be registered on QR.

(5) Different regions or countries will base on the local development status and needs when formulating their own policies or measures to encourage continuing education. It is therefore difficult to make
direct comparison among policies of different places. For instance, under an overseas scheme providing training subsidies to employers, part of the resources come from the "Skills Development Levy" imposed on the employers with an amount equivalent to around 0.25% of the employees' monthly salaries. Such kind of mode is not directly comparable with the operation of CEF which only requires a learner to pay 20% while the Government shoulders 80% of the course fee subject to a ceiling of $10,000.

The Government encourages continuing education through a basket of measures. Apart from CEF and other subsidy schemes, expenses on employee training are deductible under the profits tax regime so as to encourage employers to provide training for their employees. Moreover, to encourage the public to pursue further education and achieve self-enhancement, as announced in the 2017-2018 Budget, starting from the year of assessment ("YoA") 2017-2018, the deduction ceiling for self-education expenses will be raised from $80,000 in YoA 2016-2017 to $100,000. The current deduction ceiling is already higher than the actual self-education expenses of the majority of the public. Separately, individual trade organizations or relevant Government departments have been providing sector-specific manpower training schemes and measures to promote the sectoral development.

Procurement of firearms products by the Police

19. MR HOLDEN CHOW (in Chinese): President, it has been reported that MP5 submachine guns ("MP5") have been extensively used by a number of units within the Police Force since the 70s of the last century, and a German firearms manufacturer has stopped selling MP5 as well as their parts and accessories to the Hong Kong Police Force ("HKPF") starting from early last year. In this connection, will the Government inform this Council:

(1) whether it knows the reasons why the aforesaid firearms manufacturer has stopped selling such firearms products to HKPF; whether other firearms manufacturers in Germany have also stopped selling such products to HKPF;
(2) whether the Police encountered any difficulty in purchasing firearms products from member countries of the North Atlantic Treaty Organization other than Germany last year; and

(3) for how long the Police's existing stock of MP5 parts may last for repair purpose; whether the Police have commenced the procurement procedures for firearms products to replace MP5 and when the replacement exercise is expected to complete; whether a vacuum period of firearms shortage will emerge?

SECRETARY FOR SECURITY (in Chinese): President, according to section 10 of the Police Force Ordinance (Cap. 232), the Police have the responsibility to take lawful measures to maintain public order and public safety, as well as to safeguard life and property. On occasions where an act causing danger to others is occurring or is about to occur, the Police shall assess the circumstances on the scene and exercise professional judgment for taking appropriate actions, which include using the minimum force required to ensure public safety and public order. With regard to the questions raised by Mr Holden CHOW, our consolidated reply is as follows:

Firearms are one of the most important equipment of police officers. When selecting firearms for use by police officers during their execution of duties, the Police will draw reference from the firearms used by law enforcement authorities of advanced countries around the world, and assess whether these types of firearms are appropriate for the environment and situation of Hong Kong. General beat officers, crime investigation officers, as well as police officers from the Emergency Unit, Police Tactical Unit and special units, etc. are all equipped with firearms.

The Police have very stringent rules and guidelines on the use of firearms. In general, police officers may use firearms to protect anyone, including themselves, from the threat of death or serious injury. According to the Police's principles on the use of force, police officers may use firearms only when no lesser degree of force can achieve the lawful purpose. Besides, police officers will give verbal warning prior to the use of firearms as far as circumstances permit and, where practicable, give the person(s) being warned every opportunity to obey police orders before using firearms.
Every police officer, whether newly recruited or serving, has to go through rigorous training on the use of force in order to fully understand how to use different levels of force in a safe and effective manner, thereby achieving the related lawful purpose. The above training includes the use of firearms, which serves to ensure that police officers have adequate training and capability to use firearms and can discharge their daily duties in a safe and effective manner. Police officers will receive training in marksmanship principles, performance check and safe operation of firearms, so that they may have a clear understanding of the marksmanship principles of using firearms and have adequate knowledge of operating handguns in an independent and safe manner while they are on duty.

As different Police units have different work nature, operational needs and specialties, officers are equipped with different firearms. For instance, the firearms issued to general uniformed beat officers differ from those issued to crime investigation officers, the Police Tactical Unit, Emergency Unit or special units in terms of models, performance, etc. In addition to firearms, each unit is also issued with other equipment based on operational needs. All along, the Police have kept on reviewing police officers' equipment, including firearms and accessories, so as to provide the most appropriate and adequate firearms for officers' use, as well as provide relevant training to ensure that duty and actual operational needs are met.

With regard to the Member's question on the firearms used by police officers and the relevant procurement details, as they touch on operations and deployment, the details should not be disclosed or it may jeopardize the Police's operational capability.

Currently, there are many suppliers around the world which manufacture different types of firearms with different performance. The Police have all along been monitoring the supply of firearms of different types and performance by different countries, and procuring equipment or replacing them with more appropriate ones in light of needs. Regarding the procurement of firearms, the Police will, in accordance with the Government's established procurement procedures, procure the necessary equipment through appropriate tender procedures. The Police source their firearms from manufacturers in different countries rather than relying on any single supplier. The situation concerning the supply of certain types of firearms by individual manufacturers will not affect the Police's daily operations and law enforcement capability. In fact, the
firearms used by the Police will change in light of different situations, including the supply of new firearms in the market, new operational needs of the Police, changes in operational deployment, or adjustments made to meet deployment, training and tactical needs, etc. Review and replacement of firearms by the Police is a normal matter and also a constant and necessary measure for maintaining daily operational and enforcement capability.

Reproduction of Hong Kong currency notes

20. **MR KENNETH LEUNG** (in Chinese): President, under section 103 of the Crimes Ordinance (Cap. 200), a person who, without the consent in writing of the Monetary Authority ("MA"), reproduces on any substance whatsoever, and whether or not to the correct scale, any Hong Kong currency note or any part of a Hong Kong currency note, commits an offence. Currency notes include notes which have been lawfully issued in Hong Kong or elsewhere than in Hong Kong. It has been reported that in the year before last, the police found in a props company 223,000 reproduced notes which were claimed to be used as film props, and subsequently instituted prosecution by invoking section 102 of the Ordinance against the owner of the company for possessing counterfeits of currency notes. Trial of the case commenced early this month. Some members of the film industry have indicated that a vast majority of the members of the industry have all along been unaware of such legal requirements for years. In this connection, will the Government inform this Council:

(1) of the procedure for making applications to MA for reproducing banknotes;

(2) of the respective numbers of applications for reproducing banknotes received by, consented to and rejected by MA in each of the past five years; the average processing time for such applications; the major type of the applicant organizations; if there were rejected applications, of the reasons for that;

(3) whether MA publicized, in the past five years, among the practitioners and organizations in the film industry and related industries the application procedure and the relevant legal
requirements for reproducing banknotes; if so, of the details; if not, the reasons for that; and

(4) whether it has plans to discuss with the practitioners and organizations in the film industry and related industries matters such as the reproduction of banknotes and the use of such replicas as props, and draw up a more flexible and simpler application procedure in light of the actual circumstances; if so, of the details; if not, the reasons for that?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, as the matters pertaining to Mr LEUNG's question are relevant to a case under criminal proceedings, the Hong Kong Monetary Authority ("HKMA") is unable to comment on the case. The following are the general requirements and procedures for processing applications for reproduction of Hong Kong currency notes.

To prevent counterfeit notes from going into circulation and misleading the public, any person who wants to reproduce on whatsoever substance the whole or any part of any Hong Kong currency note must in advance obtain the consent in writing of the Monetary Authority pursuant to section 103 of the Crimes Ordinance (Cap. 200 of the Laws of Hong Kong), without which that person will have committed an offence under the law. Besides, as the note-issuing banks and the Government of the Hong Kong Special Administrative Region own the copyrights of their respective currency notes, applicants must seek their consent before the reproduction to avoid infringing their intellectual property rights.

Applicants should provide information such as name, contact information, purpose of the intended reproduction of Hong Kong currency notes, the denomination and number of copies to be reproduced, and name of the note-issuing bank. To prevent the replica notes from falling into a wrongdoer's hand to deceive the public, applicants must comply with stringent reproduction conditions, including insertion of easily identifiable elements in the replicas to differentiate them from genuine notes. For example, the replicas shall be at least 20% smaller or larger than the actual size of the notes and the words "Stage Money" shall be printed prominently at the centre and on both sides. The
Police's presence may be required during the printing of these replicas. All plates, negatives, films, electronic files and other materials used for producing the replica notes shall be surrendered to the Police for retention and disposal. In addition, each replica shall be printed with an individual serial number to record movement and such register shall be readily available for inspection by the Police. All the replicas shall be surrendered to the Police for destruction after filming. Applicants shall undertake in writing to exercise due care to fulfil the relevant conditions and to ensure that the public is protected from economic loss and to preserve public confidence in Hong Kong currency. Other jurisdictions have similar stringent requirements for overseeing the reproduction of banknotes.

In the past five years, the Monetary Authority received a total of 265 applications for reproduction of Hong Kong currency notes, of which five cases were rejected, 10 cases were withdrawn by the applicants, and the remaining 250 cases were given consent in writing by the Monetary Authority. Generally speaking, the Monetary Authority will respond to applicants within seven working days and complete the approval in about two weeks. The vast majority of the applications are for the purpose of production of textbooks, advertisements, television programmes or movies. Very few applications were rejected, for reasons such as the banknotes being reproduced were not Hong Kong currency notes.

Through the HKMA website and education seminars, members of the public can access information about the security features of Hong Kong currency notes and the legislation and offences associated with the reproduction of Hong Kong currency notes. In the past three years, HKMA jointly hosted with the Police 80 seminars for the public, including bank cashiers, retailers and students, to remind them of the security features of Hong Kong currency notes and the legislation relating to reproduction of Hong Kong currency notes.

Cross-boundary students progressing to Secondary One

21. MR CHAN HAK-KAN (in Chinese): President, at present, quite a number of students cross the boundary from the Mainland to attend school in Hong Kong ("cross-boundary students") every day. It has been reported that the number of cross-boundary students graduating from primary schools this year
will be significantly higher than those in the past few years. Although the number of Secondary One ("S1") places for the next school year will increase accordingly, there will only be an additional 283 S1 places in secondary schools using English as the medium of instruction, which are more popular among parents. It is therefore expected that there will be intense competition for S1 places. In this connection, will the Government inform this Council:

1. of the number of cross-boundary students who will progress to S1 in the next school year, and its percentage in the total number of S1 students, as estimated by the authorities;

2. since there will be an increase in the number of cross-boundary students progressing to S1 in the next school year, whether the authorities will allocate additional resources to those schools in districts such as the North District and Tai Po, which have all along been admitting a relatively larger number of cross-boundary students; if so, of the details;

3. given the differences between cross-boundary and local students in aspects such as culture and language, of the additional measures to be put in place by the authorities to assist cross-boundary students progressing to S1 in adapting to school life quickly; and

4. as it is expected that the demand for S1 places will rise continuously between the current school year and the 2020-2021 school year, of the authorities' long-term plans for the supply of S1 places in the coming few years?

SECRETARY FOR EDUCATION (in Chinese): President, provision of public sector secondary school places is planned on a territory-wide basis. The Education Bureau sees to it that there is sufficient provision of Secondary One ("S1") places to meet the demand for every cycle of the Secondary School Places Allocation ("SSPA"). To cope with the progressive rebound of S1 student population, the Education Bureau has discussed and preliminarily achieved a consensus with the sector on the directions and strategies for addressing the projected increase in the demand for S1 places in the forthcoming years.
Our reply to Mr CHAN's question is as follows:

(1) The estimated number of Primary Six students participating in SSPA 2018 is around 50,300, of which about 2,100 are cross-boundary students ("CBS") (including approximately 200 students currently studying in classes for Hong Kong students in Shenzhen), accounting for around 4% of the total number of students participating in SSPA.

(2) To ensure that schools are provided with the manpower and resources correspondent to their needs in teaching and student support for provision of quality education, under the prevailing mechanism, the resources allocated to each public sector school, including recurrent grants and teaching staff establishment, are mainly calculated according to the number of classes approved by the Education Bureau. With the increase in the number of students participating in SSPA (including CBS), the overall number of approved classes will increase accordingly and so will the resources allocated. For SSPA 2018, apart from the established practice of netting arrangements and assuming schools currently operating less than three S1 classes will operate three S1 classes in the estimation of supply of S1 places for the next school year, we anticipate that the number of S1 classes has to be increased in the North and Tai Po districts in the coming school year to meet the demand. If the actual number of S1 classes operated by a school exceeds the number projected, it will be provided with additional resources accordingly.

(3) The Education Bureau has all along been assisting newly arrived CBS to integrate into the local community and overcome learning barriers. Parents may choose to enrol them on a full-time Initiation Programme, which lasts for six months and covers Chinese, English, as well as learning and social adaptation skills, before studying in mainstream schools. For the vast majority of newly arrived students who choose to study in mainstream schools direct, their schools can also make use of the School-based Support Scheme Grant to organize school-based support programmes such as tutorial
classes, orientation activities and guidance activities for them. The Education Bureau also subsidizes non-governmental organizations to run a 60-hour Induction Programme at night or on weekends for newly arrived students studying in mainstream schools to understand the local community and culture, as well as to master learning skills. Furthermore, as a holistic approach to assisting these students in meeting their learning needs, schools may flexibly utilize various kinds of the Education Bureau resources to address students' learning diversities and help them integrate into the learning environment. If there are any challenges in learning, social life, behavioural and emotional developments, they may seek help from school social workers or student guidance personnel who may render assistance as needed and, where necessary, refer their cases to other service units for appropriate services. Generally speaking, most CBS promoting to S1 in public sector schools have studied in public sector primary schools in Hong Kong. It is believed that they have accommodated to the possible differences in terms of culture and language, etc.

(4) Based on the information available, the overall number of S1 students is expected to rebound steadily from the 2017-2018 school year onwards. To address the projected increase in the demand for S1 places in the forthcoming years, the Education Bureau and the sector met and reached a consensus in October 2017 on the framework of directions and strategies for dealing with the issue, which includes adopting the established arrangements under SSPA, and progressively reverting the allocation class size to 34 upon the rebound of S1 student population (i.e. "place reinstating") as pledged by the sector prior to the implementation of the targeted relief measures. To facilitate early preparation of the sector, both parties agreed to withhold the "place reinstating" arrangement in SSPA 2018. Such arrangement will be implemented across-the-board in SSPA 2019, the magnitude of which is subject to the projected demand, when the shortfall in overall S1 places is projected to be significant. Moreover, if there is still a shortfall in school places in individual districts after adopting the established netting arrangements of school places, the number of S1 classes of these districts will be increased in order to meet the demand. The Education Bureau will continue to review the supply of and demand
for S1 places, and maintain communication with the sector to ensure that the demand for S1 places is fully met in each cycle, and the development of schools is sustainable and stable.

Prevention and treatment of osteoporosis

22. MS ALICE MAK (in Chinese): President, recently, some community groups have relayed to me that the elderly, especially women, have a higher risk of developing osteoporosis. As osteoporosis has no obvious symptoms, quite a number of women were not diagnosed with osteoporosis until they received treatment for fractures caused by collisions or falls. Regarding the prevention and treatment of osteoporosis, will the Government inform this Council:

(1) whether it knows the current number of osteoporosis patients in Hong Kong, together with a breakdown by the patients' gender and bone mineral density ("BMD") test scores;

(2) whether it knows the number of new confirmed cases of osteoporosis in various public hospitals in each of the past 10 years, and the respective numbers of osteoporotic persons who, after sustaining fractures, (i) were admitted to hospitals for treatment, and (ii) died from complications (with a breakdown of such numbers by gender);

(3) whether it knows the respective numbers of BMD tests performed on women in the various (i) public hospitals and (ii) Woman Health Centres ("WHCs") under the Department of Health ("DH") in each of the past five years, as well as the respective average waiting times for receiving such tests;

(4) of the current role of WHCs under DH in promoting the prevention of osteoporosis; the number of health talks on osteoporosis held in WHCs in each of the past five years and their contents; and

(5) whether it will consider bringing the BMD test into the scope of the routine health assessment services provided by WHCs and the Maternal and Child Health Centres under DH; if so, of the details; if not, the reasons for that?
SECRETARY FOR FOOD AND HEALTH (in Chinese): President,

(1) and (2)

The Hospital Authority ("HA") and the Department of Health ("DH") do not maintain statistics on the number of osteoporosis patients.

(3) to (5)

The bone mineral density ("BMD") tests are performed on patients according to needs mainly for the purposes of diagnosis or follow-up treatment. Most of the patients receiving BMD tests are non-urgent cases/non-inpatients. HA does not maintain statistics on the number of BMD tests performed and the average waiting time for such tests.

The Family Health Service of DH provides Woman Health Service for women aged at or below 64 years at its three Woman Health Centres and ten Maternal and Child Health Centres, including health education, assessment and counselling. Nevertheless, the Woman Health Service does not provide BMD tests in view of the absence of adequate scientific evidence to support osteoporosis screening programme for the whole population or all women. In addition, osteoporosis is a chronic metabolic disease of the bone, which is not limited to women and can also occur in men. Individual members of the public belonging to higher risk groups may consult their family doctors to assess the suitability of taking a BMD test to determine whether they have developed osteoporosis.

The health education provided by the Woman Health Service of DH covers bone health and osteoporosis prevention, and advocates the importance of adopting a healthy diet and lifestyle to prevent the disease. Health education messages are disseminated through such channels as health talks, individual counselling, leaflets and websites. DH also regularly reviews the health education resources for promoting bone health to meet the needs of the community. As the information on the prevention of osteoporosis with a healthy lifestyle is included in health talks on various topics, it is not possible to separately identify the number of relevant talks conducted.
GOVERNMENT BILLS

First Reading and Second Reading of Government Bills

First Reading of Government Bill


FINANCIAL REPORTING COUNCIL (AMENDMENT) BILL 2018


Bill read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

MR JAMES TO (in Cantonese): How can you say that you had not shown partiality for the Secretary for Justice?

Second Reading of Government Bills


FINANCIAL REPORTING COUNCIL (AMENDMENT) BILL 2018

(A number of Members stood up and spoke loudly)

MR JAMES TO (in Cantonese): How can you say that you had not shown partiality for the Secretary for Justice?

PRESIDENT (in Cantonese): Mr James TO, please sit down.
MR JAMES TO (in Cantonese): How can you say that you had not shown partiality for the Secretary for Justice?

(A number of Members kept yelling)

PRESIDENT (in Cantonese): Mr James TO, please sit down.

MR JAMES TO (in Cantonese): How can you say that you had not shown partiality for the Secretary for Justice?

PRESIDENT (in Cantonese): I allowed over 24 minutes to be spent on this oral question.

MR JAMES TO (in Cantonese): How can you say that you had not shown partiality for the Secretary for Justice?

MR LAM CHEUK-TING (in Cantonese): Did you count the time?

MR JAMES TO (in Cantonese): Since you did not pause the timer, how can you say that you had not shown partiality for the Secretary for Justice?

PRESIDENT (in Cantonese): During the last oral question time, a number of Members spent 1 minute 20 seconds raising their points of order. Though the timer was not stopped, I allowed over 24 minutes to be spent on this oral question. The total duration of each oral question should normally not exceed 22 minutes, but I already allowed an extra two minutes to be spent on this oral question.

(A number of Members yelled)

MR LAM CHEUK-TING (in Cantonese): Shame on Andrew LEUNG!
PRESIDENT (in Cantonese): Will Members please keep quiet.

MR LAM CHEUK-TING (in Cantonese): Shame on Andrew LEUNG!

(Dr Helena WONG yelled)

(A number of Members yelled while walking out of the Chamber)

PRESIDENT (in Cantonese): Mr LAM Cheuk-ting and Dr Helena WONG, if you keep yelling, I will regard your conduct as grossly disorderly.

DR HELENA WONG (in Cantonese): The Secretary for Justice's conduct is grossly disorderly; why don't you warn her?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move the Second Reading of the Financial Reporting Council (Amendment) Bill 2018 ("the Bill").

The Bill aims to reform the regulatory regime for auditors of listed entities and further enhance its independence, so as to enhance investor protection and ensure that the regime is benchmarked against international standards and practices.

International standards and practices concerning the regulatory regime for auditors in recent years are that the regulation of auditors of listed entities should be independent of the audit profession and be subject to oversight by independent oversight bodies acting in the public interest. However, at present regulatory functions with regard to auditors of listed entities in Hong Kong are primarily performed by the relevant professional body, namely the Hong Kong Institute of Certified Public Accountants. Hong Kong's present regime is considered by many as a self-regulatory regime, which is not on a par with prevailing international standards and practices. Exactly for this reason, Hong Kong is ineligible to be represented on the International Forum of Independent Audit Regulators. This multinational organization wields considerable influence in the regulation of auditors. The continued failure of Hong Kong to be represented in
that organization will hinder cooperation between Hong Kong and other jurisdictions in the regulation of auditors, hampering our reputation as an international financial and capital market.

In addition, the existing regulatory regime for auditors is not in line with the standards of certain important international organizations on investor protection. Since 2010, the International Organization of Securities Commissions has introduced new principles of securities regulation with an overriding objective of protecting investors, which include the principle that auditors should be subject to adequate levels of independent oversight. In 2014, the International Monetary Fund recommended in its report concerning the assessment of Hong Kong's financial sector that Hong Kong should, as far as its securities market is concerned, establish a "fully independent authority with responsibility for the oversight of the audit profession" and that such authority "should have jurisdictions over all auditors that audit companies listed in Hong Kong" and should be given "strong enforcement power".

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

In view of the aforesaid situation, Hong Kong does need to reform the regulatory mechanism for auditors of listed entities, so as to provide investors with better protection. The Government conducted a public consultation in this connection in 2014, and released consultation conclusions in June 2015. The results of the public consultation indicated that an overwhelming majority of the respondents supported the objective and direction of the reform. We propose that the Financial Reporting Council should act as the independent oversight body regulating public interest entity ("PIE") auditors under the new regulatory regime. PIEs refer to corporations with issued shares or stocks listed in Hong Kong or collective investment schemes with interests listed in Hong Kong. The Financial Reporting Council is a body established in 2007 under the Financial Reporting Council Ordinance (Cap. 588) and independent of the audit profession, responsible for conducting investigations into possible auditing and reporting irregularities related to listed entities. Since its establishment, the Financial Reporting Council has accumulated extensive experience in undertaking the regulatory work concerned.
Under the Bill, in addition to investigatory function with which it is already vested, the Financial Reporting Council will be further responsible for undertaking inspection and disciplinary functions regarding PIE auditors. At the same time, the Hong Kong Institute of Certified Public Accountants will continue to perform the statutory functions of registration of local PIE auditors and setting the requirements for continuing professional development, as well as setting standards on professional ethics, auditing and assurance. Under the new regime, however, its performance of such functions will be subject to oversight by the Financial Reporting Council.

Under the Bill, an auditor which wishes to undertake specified PIE audit engagements must be registered as a PIE auditor. As for the eligibility criteria concerned, there will be no material change to the existing eligibility criteria for a local auditor to be an auditor of a listed entity.

Taking into account the International Monetary Fund's comment on disciplinary powers and for better investor protection, the Bill empowers the Financial Reporting Council to impose a range of disciplinary sanctions, including cancelling or suspending the registration of a person that involves irregularities as auditor, reprimanding the auditor, ordering the auditor to pay a pecuniary penalty. Similar to other financial regulatory regimes in Hong Kong, the Bill will provide for appropriate procedural safeguards to ensure that the principles of fairness and proportionality are followed when the Financial Reporting Council exercises its disciplinary powers. In addition, the Bill will also introduce a Review Tribunal that is independent of the Financial Reporting Council, so as to allow the auditor to seek a review of a decision on disciplinary sanctions. If, following the conclusion of the review, the auditor is still not satisfied with the decision, he may lodge an application for leave to appeal with the Court of Appeal.

In order to support the Financial Reporting Council to become a comprehensive and independent PIE auditor oversight body, its governance structure will be readjusted, so as to ensure that it is not only independent of the profession but also has sufficient professionals to discharge its statutory functions. In addition, to ensure the stability of funding support for the Financial Reporting Council, and in accordance with the principle of "user pay" and the principle that the independent auditor oversight body should be
operationally and financially independent of the Government, the Financial Reporting Council under the new regime will be funded by introducing three new levies on securities transactions, PIEs and PIE auditors respectively.

Deputy President, since the release of consultation conclusions in June 2015, we have been discussing the details of the new regime with the Financial Reporting Council and the Hong Kong Institute of Certified Public Accountants in view of the concerns of the audit profession over the new regime. To respond to the concerns of the audit profession over the disciplinary powers of the Financial Reporting Council, we will implement the following administrative arrangements:

(a) the Financial Reporting Council will ensure that the executives who have participated in the investigation, regular inspection or disciplinary processes of a case would not take part in making a disciplinary decision of the same case;

(b) the Financial Reporting Council will establish a panel of audit experts independent of it to provide expert opinions on the application of relevant auditing standards; and

(c) the Financial Reporting Council will also establish a panel of case advisers who are legal experts independent of it. Where the sanction recommended by the Disciplinary Department for consideration by the Financial Reporting Council is not accepted by the auditor concerned, a case adviser will give his views on whether the principles of due process and natural justice have been observed in the disciplinary process, as well as on the merits of the case including whether the recommended sanction is appropriate.

In addition, following the release of consultation conclusions, we have further discussed the issue of funding mechanism with the profession in view of the concerns of the profession over the financial implications of the new regime on PIE auditors, particularly small and medium-sized audit firms. As proposed by the Bill, the contributions of levies on sellers and purchasers in securities transactions, PIEs and PIE auditors to the funding of the Financial Reporting Council should be in the ratio of 50:25:25. On this basis, and having regard to
the levels of the three levies as determined under the Bill, the Financial Reporting Council should be able to sustain its operation under the new regime without subsidy from general taxpayers.

Deputy President, auditors play the role of a key gatekeeper in assuring the integrity and accuracy of the financial reports of listed entities. Given the externally-oriented nature of the financial market of Hong Kong, we must maintain the confidence of both international and local investors in our overall financial regulatory regime with regard to the capital market. For this reason, it is very important to ensure that the auditor regulatory regime is benchmarked against international standards and practices. I hope that the Legislative Council will expeditiously pass the Bill, so as to further enhance the regulatory regime, protect investors and public interests, and strengthen the status of Hong Kong as an international financial centre.

I so submit. Thank you, Deputy President.

(Mr CHAN Chi-chuen stood up)

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Chi-chuen, what is your point of order?

MR CHAN CHI-CHUEN (in Cantonese): Deputy President, I request a headcount.

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Chi-chuen has requested a headcount.

Will the Clerk please ring the bell to summon Members back to the Chamber.

(While the summoning bell was ringing, a number of Members returned to the Chamber but some Members did not return to their seats)
DEPUTY PRESIDENT (in Cantonese): Will Members please return to their seats. The meeting now continues.

I now propose the question to you and that is: That the Financial Reporting Council (Amendment) Bill 2018 be read the Second time.

In accordance with the Rules of Procedure, the debate is adjourned and the Bill is referred to the House Committee.

Resumption of Second Reading Debate on Government Bill

DEPUTY PRESIDENT (in Cantonese): This Council resumes the Second Reading debate on the Companies (Amendment) Bill 2017.

COMPANIES (AMENDMENT) BILL 2017

Resumption of debate on Second Reading which was moved on 28 June 2017

DEPUTY PRESIDENT (in Cantonese): Mr WONG Ting-kwong, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's Report.

MR WONG TING-KWONG (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 and Companies (Amendment) Bill 2017 ("the Bills Committee"), I submit the Bills Committee's Report to the Council and report on the major deliberations of members of the Bills Committee on the Companies (Amendment) Bill 2017 ("the Bill").

The main purpose of the Bill is to amend the Companies Ordinance ("the Ordinance") to require a company incorporated in Hong Kong to keep a significant controllers register ("SCR") of the company to enhance the transparency of beneficial ownership of the company to meet the standards set by the Financial Action Task Force ("FATF"). The Bills Committee has held eight
meetings to discuss the Bill with the Government and to receive views from deputations. The Bills Committee supports the proposals of the Bill in general which would align Hong Kong's anti-money laundering and counter-terrorist financing regulatory regime with the international standards as promulgated by FATF.

The Bills Committee notes that the Bill proposes to add a new Division 2A to Part 12 of the Ordinance to introduce a SCR and impose various requirements relating to SCR on an applicable company. An applicable company is required to keep a SCR at the company's registered office or a prescribed place in Hong Kong. A SCR must contain information on the significant controllers of an applicable company, namely registrable persons and/or registrable legal entities who have significant control over the company.

The proposed new Schedule 5A to the Ordinance sets out the criteria for determining whether a person has significant control over a company. An applicable company has to take reasonable steps to investigate whether the company has any significant controllers and to identify each of these significant controllers.

As regards the exemptions, the definition of "applicable company" under the proposed new section 653A of the Ordinance does not include listed companies. The Bills Committee has enquired about the rationale for exempting listed companies and noted that some deputations have suggested providing exemption to other companies such as companies limited by guarantee. The Government has advised that listed companies are exempt as they are subject to a more stringent disclosure regime on beneficial ownership under the Securities and Futures Ordinance. Hence, there was no consensus among respondents to the consultation exercise on the Bill on providing exemption to other companies; neither did the Government consider there was any strong justification for providing exemption to companies limited by guarantee.

Given the unequivocal intention of FATF to catch legal persons of all forms, carving out the various types of companies will undermine the effectiveness of the disclosure regime. Therefore, under the proposed new section 653ZG(1)(a) of the Ordinance, the Financial Secretary is empowered to make regulation providing for exemption of a particular type of company, or class
of companies, should such need arise in future. Such regulations will be made by subsidiary legislation subject to the negative vetting procedure of the Legislative Council.

In respect of the preparation of a SCR, the Bills Committee has enquired about the reasonable steps to be taken by applicable companies in identifying their significant controllers and assistance provided to companies in minimizing their compliance costs. The Government has responded that reasonable steps may include examination of relevant documents kept by an applicable company, like its Articles of Association and register of members. In order to assist applicable companies in complying with the various requirements relating to a SCR, the Companies Registry will provide guidelines and develop specified forms for use by companies. The Companies Registry will also launch publicity campaigns on the new requirements and set up an enquiry hotline to enhance the public's understanding of the new beneficial ownership regime of companies.

The Bills Committee has discussed issues relating to the access to SCRs. Under the Bill, an applicable company is required to make available its SCR for inspection upon demand by law enforcement officers. The proposed new section 653B(1) sets out the list of law enforcement officers permitted to inspect SCRs. The Bills Committee notes that while some deputations support allowing inspection of SCRs by law enforcement officers only, some deputations consider that information on the beneficial ownership of a company should be kept in the Companies Registry for public inspection. As regards the list of law enforcement officers accessible to SCRs, a member proposed adding officers of the Labour Department and the Mandatory Provident Fund Schemes Authority to the list with a view to facilitating the discharge of their functions relating to companies.

The Government has responded that the majority of the respondents to the consultation exercise supported the proposal of requiring a company to keep a SCR at the company's registered office or a prescribed place in Hong Kong and allowing only competent authorities to access SCRs. Having regard to privacy concern, compliance burden, international practices and FATF recommendations, the Government considers it appropriate to restrict access to SCRs by law enforcement officers only. The Government has pointed out that the current list stipulated by the proposed new section 653B(1) has been carefully crafted to include only officers of the Companies Registry and those officers who perform
functions under the law of Hong Kong that are related to the prevention, detection or investigation of money laundering or terrorist financing.

To cater for future needs, the Financial Secretary may make regulation to specify any other department or agency of the Government or other statutory bodies. Such regulation will be subsidiary legislation subject to the scrutiny of Legislative Council under the negative vetting procedure. The Government will keep in view the implementation of the new regime and review the specified list of accessible officers whenever necessary to ensure that it is in keeping with law enforcement needs. The Bills Committee will not propose amendments to the Bill and will support the resumption of the Second Reading debate on the Bill.

Deputy President, the following are my personal views on the Bill.

The authorities introduce the Bill mainly for the purpose of implementing FATF requirements on enhancing the transparency of beneficial ownership of companies incorporated in Hong Kong, thereby aligning Hong Kong’s anti-money laundering and counter-terrorist regulatory regime with international standards as promulgated by FATF. Although the purpose of the Bill is to enable Hong Kong to perform its international obligation of combating money laundering as an international financial centre, the benefit Hong Kong gets is more than merely winning the applause of fulfilling this international obligation.

The Bill requires all companies, with the exception of listed companies, to keep a SCR of its beneficial owners or significant controllers and make it available for inspection by law enforcement agencies when necessary to identify such people or entities of the companies concerned. This practice is to prevent criminals from hiding their true identity by forming shell companies to engage in money laundering, terrorist financing or other illegal activities. It also allows law enforcement agencies to trace the true identities of those who engage in such illegal or criminal activities. In so doing, it not only enhances Hong Kong's financial security but also greatly benefits Hong Kong's overall social security.

At the same time, since the Bill restricts the access to SCRs to law enforcement officers only, members of the public cannot access the relevant information freely. With the public barred from accessing such information for trivial matters, the privacy of the beneficial owners or significant controllers of a company is protected. These measures can on the one hand strengthen the
regulation, and on the other strike a right balance between law enforcement and the privacy of the people concerned. I think they should be supported.

Finally, during the scrutiny of the Bill, some members of the public raised doubts about the definition of a beneficial owner or a significant controller as specified in the Bill. In the case of family-owned enterprises or companies, although the beneficial owners or significant controllers of the company have been specified, they can be replaced at any time by elders of a clan, or their words and deeds may be influenced by elders of a clan. As these elders have not entered into any share-holding agreement with the named beneficial owners or significant controllers, who then are the true beneficial owners or significant controllers? In respect of this, I hope that after the Bill is enacted, the authorities will provide guidelines stipulating clearly the definition of a beneficial owner or a significant controller for compliance by companies.

Deputy President, I so submit. Both the Democratic Alliance for the Betterment and Progress of Hong Kong and I support the Bill. Thank you, Deputy President.

MR JAMES TO (in Cantonese): Deputy President, the Companies (Amendment) Bill 2017 and the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 to be scrutinized later are closely related to the world's major trends in the past 8 or 10 years. The trends include the anti-terrorists policy after the 911 Incident, and the dwindling tax revenues of certain economically advanced countries as a result of their high tax rates which force locally registered companies to relocate to overseas tax havens. In response to these trends, many organizations have been established and Hong Kong once chaired one such international organization. As even such a small place like Hong Kong was once invited to chair one of these organizations, it is obvious such organizations are indeed multifarious.

We all understand that Hong Kong is an international financial centre with relatively low tax rates. As Hong Kong only requires companies and individuals to pay taxes on their local income sources and has not put in place a global taxation system, there are free flows of capital. Also, owing to the robust economic growth in Mainland China and other economies in our neighbourhood in recent years, there has been a steady flow of capital into Hong Kong.
A few years ago, Hong Kong was almost blacklisted at a certain international convention. As far as I can remember, rumour has it that eventually it was President HU Jintao who got Hong Kong out of the predicament as he asked the Prime Minister of France to give Hong Kong one more chance. The situation was rather awkward at that time. No matter what, owing to various reasons and Hong Kong’s unique position, many economies, though more advanced than Hong Kong, have used Hong Kong as a safe haven for their capital. In the midst of this major global trend, there is no way that Hong Kong can evade, and no other places dare go against the trend. When the United States, the European Union and all other places under their influence have determined to implement a certain policy, are there any places bold enough not to comply, comply in part or comply after a long delay? It can thus be said that this is a high-handed repression. One may ask: If Hong Kong has the say, must it implement the policy concerned? Not necessarily. But as we have no choice but succumb to the circumstances, we can only follow the trend.

In respect of the obligations imposed on us by various international conventions or during the so-called "mutual inspections", to what extent should we comply? My principle is that we only have to meet the basic requirement, nothing more. This does not mean we fulfil our obligations in a sloppy or perfunctory manner, or we want Hong Kong to become a money laundering centre or to attract people to engage in shady business in Hong Kong. That is not our objective. However, as every economy has its own unique characteristics, if we are only required to meet 5 requirements, but Hong Kong meets 6, 7, 8 or even 10 requirements, it will only be detrimental to Hong Kong.

Of course, from another perspective, as President XI said, Hong Kong must have confidence in its own systems. For example, in respect of combating money laundering and terrorist financing, we must believe that our present regime is effective; Hong Kong is not in the wrong and it is not an irresponsible member of the international community. We do not deliberately allow shady activities to take place in Hong Kong. Our regime is indeed rather effective. Through various forms of regulations, some of which are not enforced by law but through professionalism, self-regulation or guidelines, a rather good result has been attained.

Every time an international organization completes its examination of the conditions of Hong Kong, it would list out the inadequacies identified.
Basically, for areas that we are inadequate, improvements should be made and all requirements should be complied with. However, the SAR Government, various professional sectors or Members must avoid overcorrect. Will we be rewarded for doing extra? We will not be rewarded, but we might have to spend more time on compliance, which might compromise our competitiveness, increase our trading costs, burden our already effective regime with unnecessary procedures and incur a lot of compliance costs. In the end, our competitiveness lags behind our competitors of comparable strength and we will lose out.

Therefore, I will carefully study all the details. As I have keen interest in and have paid more attention to these matters, and coupled with my 10-odd years of relevant experience, I will ask the Government in detail whether each measure is the minimum requirement. Sometimes the Government will say that the measure is the minimum requirement, and at other times, it will say that the measure, though not the minimum requirement, is still appropriate. I will then ask what the minimum requirement is and how it is different from the appropriate requirement. I will also ask why we have to meet the appropriate requirement which is higher than the minimum requirement. Every time I act like cross-examining the Government, meticulously examining each requirement.

Take for example the two Bills in question. Regarding the requirement of maintaining records, if a certain organization requires that records should be maintained for five or six years, but we insist on maintaining records for six or seven years, I opine that it is unnecessary to maintain records for one more year though the cost incurred may not be very big. In my view, many Members of this Council who have spoken usually trust that their colleagues have made a detailed examination of the Bill. After all the bills are rather technical in nature and the political parties they belong to may not have the manpower to examine the bills very carefully. Hence, after hearing what their colleagues say and after learning about the principles, those Members do not see any problems and they agree to pass the bills.

Sometimes, it is not only a matter of one year or six months; I think we will get into great trouble if we deviate from the basic principles. Why? First, I have to ask what good this will bring to Hong Kong; second, as I have said, these countries will make incessant demands. Such a situation is well reflected in the Legislative Council brief provided by the Government. These countries will continue to make further demands and each time they make demands, the Government can only handle the major and most important ones first. In other
words, different demands in different forms will be made incessantly. Why? Such countries keep imposing tighten requirements and requiring more detailed information. The purpose is not just to combat terrorism. They also have many other demands. Despite constant printing of money, many advanced countries are unable to significantly raise their tax revenues and they think their tax revenues are nibbled away by other countries. Angered by poverty, they demand other countries to compensate their losses. As long as they suspect their citizens are paying tax to or investing in another country, they will make incessant demands on that country.

Of course, when a certain international organization is formed against this background, that organization—sorry for being frank—will keep a bunch of bureaucrats on its payroll. Being in high position and having great powers, these bureaucrats cannot be seen as having no substantial work, they thus keep themselves busy by travelling to various countries for inspection. During their inspection, they will surely find some imperfect practices. They will then ask these countries or regions to enact further legislation to further combat or plug the loopholes perceived by them.

Deputy President, I have taken all pains to expound on these facts, in the hope that our colleagues will adhere to the fundamental principle I mentioned previously. During the scrutiny of various bills, I have observed that many colleagues, irrespective of their political parties or groupings, know what I am talking about and they somewhat agree with me. If so, we hope that the Government will hear our views and agree to adopt the said principle and standard, so that when government officials bargain with their counterparts in overseas countries, they know that they have powerful backing in this Council and the community. We support their adoption of this principle and they should have the confidence to bargain with overseas counterparts.

Of course, as I said, no matter how the Government drives a hard bargain, strives to implement the requests at a later date and asks the countries concerned to consider our situation, if the countries concerned eventually still want to forcibly blacklist us, there is not much we can do. But at least we can buy some time, at least we will not lose out in international competitions, or we can temporarily relieve Hong Kong people of the trouble of meeting the constantly updated criteria and standards.
Deputy President, this is the major principle upheld by me with regard to the two Bills. Lastly, I will of course support the Second Reading and Third Reading of the two Bills but I wish to talk about one or two issues. According to the Government, in order to abide by international agreements, a new requirement is made, that is, a company has to keep a significant controllers register ("SCR"). SCRs are only accessible to certain government departments, namely the Police and the Customs and Excise Department. Some colleagues pointed out that since the Labour Department ("LD") and the Mandatory Provident Fund Schemes Authority ("MPFA") are also government departments, they should have access to SCRs in case employers defaulted on payment of employees' wages or Mandatory Provident Fund contributions. Since the Government can access SCRs of all companies, there is no reason why these two departments are barred from inspecting SCRs for reason of privacy. Of course, if there is a request that SCRs should be accessible to the public, the Government can reject on account of privacy. As for the reasons given by the Government in respect of LD and MPFA, I find them unacceptable. However, I will not oppose the Second Reading of the Bills or insist on not endorsing the passage of the Bills because the Government disallows LD and MPFA to access SCRs or because I want to strive for labour interest.

I opine that the two Bills have another significant effect that we may very often overlook. In the past, we had enacted a number of legislation relating to the disclosure and collection of information, and such laws have helped in the anti-corruption exercise in Mainland China. Originally, I thought that the passage of such bills would facilitate the exchange of information with the governments of overseas countries. However, many people might not be aware that the Central Authorities in Beijing could also, through the same mechanism, obtain information on capital outflows, companies set up in Hong Kong by corrupt individuals who fled from China, as well as information on taxes and related matters. Such information would greatly facilitate China's anti-corruption work, and I believe the two Bills will have the same effect. I support China's anti-corruption efforts. The Bills will achieve such an unexpected result.

DR KWOK KA-KI (in Cantonese): Deputy President, I speak in support of the Companies (Amendment) Bill 2017 ("the Bill").

As specified in the Bill, the purpose of this amendment exercise is mainly to combat money laundering and terrorist financing. Certainly, there are money
laundering activities in Hong Kong and the question is how to define "black money". Everyone knows that corruption is rampant in the Mainland and one of the causes of the exuberant property speculations in Hong Kong is the inflow of capital through various channels in the Mainland.

Under the rule of "Emperor XI", the Mainland Government has at one time launched a ferocious anti-corruption campaign, vowing to crack down on capital outflows. However, where there is a policy, there is a countermeasure. Since "Emperor XI" became the President of China, it seems that the outflow of Mainland capital to different parts of the world, including Europe, North America and Hong Kong, has never stopped. According to Mainland statistics, the foreign exchange reserves once recorded an outflow of US$1 trillion, an astronomical amount, within a short time. Hong Kong, as the Mainland's first stepping stone to the world, has naturally become the outlet of capital and also an important base where "black money" is turned into "white money". Hong Kong has become the place for money laundering by corrupt officials or national or private enterprises which show no regard for the country's interests.

Deputy President, frankly speaking, the problems concerning terrorists are less serious. Terrorists can pick other places for raising funds and they may not necessarily choose Hong Kong. I agree to cracking down on money laundering by amending the legislation but I doubt whether the Bill has the power to combat the money laundering activities in the Mainland. I have no doubt about the Government's original intention to amend the relevant legislation, but every now and then there is news about an influx of huge sums of money, ranging from billions to tens of billions of dollars, from unidentified sources in the Mainland, into Hong Kong to acquire properties here. One of the major recent transactions was the sale of The Center held by CK Asset Holdings Limited. This is clearly a case in which the buyer is not a big consortium but a bunch of small investors each chipping in tens of billions of dollars to acquire The Center. From this we can see that it is very hard for the authorities to trace the source of the funds.

While the SAR Government and international financial organizations hope that our financial and monetary departments will make all out efforts to maintain a corruption-free investment environment in Hong Kong, if you tell others that Hong Kong is corruption-free ... Countries in Europe and North America definitely think otherwise. It is mentioned in the government paper that unlike Macao, there are no casinos in Hong Kong. It is easy to launder money in a gambling centre like Macao. As soon as one walks into a VIP room of a casino
and changes cash for casino chips or casino cheques, he can immediately turn "black money" to "white money". That is an open secret. However, although there are no official casinos in Hong Kong, there is no lack of similar venues similar to a casino. After decades of ups and downs, the Stock Exchange of Hong Kong Limited, with the Hong Kong Government as its major shareholder, has vowed to crack down on illicit trading and curb inappropriate speculative activities. However, the stock exchange is very much like a casino as speculation on stocks will ultimately harm small investors.

Second, apart from bringing trust administrators, accountants and lawyers under regulation, this legislative amendment exercise also empowers the authorities to regulate real estate agencies. The real estate market in Hong Kong is also like a casino and the whole world knows that properties in Hong Kong are used as investment tools or money laundering tools. The latest statistics show that owing to a continuous influx of capital from the Mainland, be it "black money" or "white money", Hong Kong tops the world as the place with the highest property prices. An ordinary person will have to go without eating or drinking for 19 years in order to save enough money to buy a flat.

Therefore, I absolutely support the Bill and even hope that the Bill has the power to curb capital inflows, especially those from the Mainland, so that Hong Kong will not be turned into a money laundering base. However, I have serious doubts about the effectiveness of the Bill upon its enactment. After the Bill has come into operation, I think it will not be able to curb the inflow of "black money" from national enterprises and corrupt officials of the Mainland, as it does not have sufficient power to crack down on money laundering.

Another issue is law enforcement. Everyone knows that Hong Kong attaches great importance to law enforcement but that is not the case in the Mainland. The Mainland attaches importance to enactment of legislation but law enforcement may be a channel for corrupt officials to reap money. Under such circumstances, even though law enforcement should be the major means of Hong Kong to crack down on money laundering and the Bill will likely be passed, I do not see the Government has any intent to increase resources and law enforcement personnel to achieve the purpose of the Bill.

The main purpose of the Bill is to combat money laundering and terrorist financing, to which I strongly support. However, I am worried that the Bill will become a tool in the hands of the Government to target organizations or
companies it dislikes. Today the SAR Government may not enforce the law selectively or highly selectively, as in the case of Mainland agencies. At this moment, the Government has not engaged in targeted enforcement actions against individuals or companies that are not on friendly terms; and it will not arbitrarily enter premises to conduct searches by invoking existing laws. The Bill empowers law enforcement agencies to conduct searches. I am worried about the exercise of this power because any law enforcement agency may exercise the statutory power to conduct searches if it has any doubts. I do not wish to put the Bill on a par with legislation of Article 23 of the Basic Law. However, Members may still recall that during the discussion on the enactment of legislation to implement Article 23 of the Basic Law, Members had great reservations about some excessive powers, particularly the search power. Hence, upon the enactment and implementation of the Bill, will the Government use it against the dissidents? I am deeply worried about such a possibility.

Today the SAR Government is drawing closer and closer to Beijing and becoming more and more selective in enforcing the law. Such terms as "forbearance" and "non-enforcement" do not come from the mouth of ordinary people but from our honourable Chief Executive who used them to gloss over or harbour the authorities' non-enforcement of the law. By the same principles, will we forbear or even condone law enforcement agencies to exercise their statutory power to search companies or organizations that they consider likely to engage in money laundering? I am quite worried about that.

Mr James TO just said that he was somewhat worried about certain details, so am I. The Bill has not stipulated how to ensure the impartiality of law enforcement agencies in taking law enforcement actions. I hope that the civil servants responsible for enforcing the law in Hong Kong will adhere to the principle of impartiality. I do not wish to see them use their statutory power or the newly created powers to engage in political suppression and censorship.

I do not oppose the original intent of the Bill, which is to combat money laundering, especially the capital from unknown sources. However, I am deeply worried that the Bill fails to curb the influx of "black money" into Hong Kong, in particular the "black money" of Mainland bigwigs, but instead becomes the tool of the Government or Beijing to suppress opposing parties, companies or corporations through Hong Kong's law enforcement agencies.
I very much hope that Hong Kong can maintain a politically neutral system and that the newly enacted legislation will help Hong Kong become a more mature, fair and just society. I hope that the Government will not use the law or statutory power to suppress dissidents.

I so submit.

MR DENNIS KWOK: Deputy President, I understand that the purpose of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill") is to fulfil Hong Kong's international obligations under the Financial Action Task Force ("FATF"). In particular, the Bill is to impose statutory obligations on professional industries and professionally qualified persons, such as solicitors, accountants, real estate agents, and trust or company service providers.

I certainly support, for the record, that Hong Kong, as an international financial centre handling numerous transactions with huge amounts of money involved, must have in place a strong and effective anti-money laundering and counter-terrorist financing regime. To this end, I support the Administration's effort to continue to have an effective anti-money laundering and counter-terrorist financing regime in place. I understand that this is part of our international effort to combat money laundering and terrorist financing activities, and I recognize that this is the purpose of the Bill and the intention of the Administration. However, I wish to point out certain issues and difficulties that the Bill may pose to members of the legal profession.

First, let me explain that the solicitors' profession has long adopted a lawful, detailed and effective anti-money laundering regime with effective controls before the introduction of the Bill. In fact, I would go as far as to say that members of the legal profession are one of the pioneers of the anti-money laundering regime in Hong Kong. They are one of the first professional classes to do so, and they have always been extremely responsible and diligent when it comes to anti-money laundering matters. I wish the Administration would recognize their effort in that respect.

The Law Society of Hong Kong ("The Law Society") issued Practice Direction P in 2007 setting out the practice and guidelines that law firms and solicitors have to follow when handling client monies. This Practice Direction
is a comprehensive set of anti-money laundering regulations, a breach of which amounts to misconduct subject to disciplinary action by The Law Society. So members of the legal profession have always been very careful in observing anti-money laundering rules and regulations contained in Practice Direction P.

As reiterated by The Law Society in recent times, Practice Direction P satisfies FATF's recommendations on customer due diligence ("CDD") and record keeping. I understand that there may be differences of opinion when it comes to the actual contents of Practice Direction P, but it is the official position of The Law Society that the implementation and enforcement of Practice Direction P has already enabled the legal profession for the past 10 years or so to keep up with international standards. Members of the legal profession are mindful of their obligations as professionals when it comes to anti-money laundering …

(Mr Holden CHOW stood up)

**DEPUTY PRESIDENT** (in Cantonese): Mr Dennis KWOK, please hold on. Mr Holden CHOW, what is your point of order?

**MR HOLDEN CHOW** (in Cantonese): Deputy President, I do not mean any offence, but Mr Dennis KWOK is not speaking on the bill to which this debate relates, but is talking about the bill to which the next item of business relates, namely the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017. He will have a lot of time to talk about that bill later on, and I did listen attentively to his speech just now. However, as this Council is still debating the requirements concerning "significant controllers registers" in the Companies (Amendment) Bill 2017, can the Deputy President remind him that he should speak on "significant controllers registers" rather than the next bill?

**DEPUTY PRESIDENT** (in Cantonese): Mr Dennis KWOK, this Council is now holding the Second Reading debate on the Companies (Amendment) Bill 2017. Please speak on the subject of the debate.
MR DENNIS KWOK: Deputy President, I am fully aware of which legislation we are deliberating on. But if you have followed the development of the two bills, you should know that they are interrelated and share one purpose, which is to combat money laundering activities in Hong Kong as part of its international effort to fulfil the requirements set by FATF and to ensure that we have a domestic regime that is effective in countering money laundering and terrorist financing activities.

The drafting of the Companies (Amendment) Bill 2017 and the drafting of the Bill are, as we all know, interconnected. In fact, the two bills were jointly deliberated upon by a single Bills Committee, and the Administration is fully aware of the issues that I am about to speak on. In order to cut short the debate that we have had before, I will reserve some of my remarks on the Bill for the latter part of the discussion. But I would like to highlight that The Law Society and the legal profession have always been extremely cooperative with the Administration on matters regarding anti-money laundering activities, and have always followed the letter and spirit of the law when it comes to the anti-money laundering regime.

As a matter of substance, as I said, Practice Direction P, which has been imposed by The Law Society on its members, is largely effective. As a matter of form, it is backed by law and is enforceable. The courts have determined that Practice Direction P is a protocol of good practice which members of the legal profession will no doubt follow.

There are specific issues regarding the drafting of the Bill, but I will not discuss them here. I will leave those issues aside until we deliberate upon that bill. But I would like to point out that the two bills are interconnected, because if we step up the requirements on the disclosure of companies and their ultimate beneficial ownership, even though access to the information disclosed is only limited to law enforcement agencies, we will still enhance Hong Kong as a jurisdiction when it comes to anti-money laundering requirements. This would help law enforcement agencies to detect companies that have been put on a list of concerns or have been suspected of being used for money laundering or terrorist financing purposes. Then those companies would be more effectively monitored by the law enforcement agencies in question.

Deputy President, the Companies (Amendment) Bill 2017 empowers law enforcement agencies to access and enquire as to the list of ultimate beneficial
owners of companies incorporated and registered in Hong Kong. This is a step forward. We wish the Administration would have made a more progressive effort in opening up ultimate beneficial ownership information of companies to the wider public, because this is a matter of transparency that some jurisdictions such as the United Kingdom have adopted, and may be something that we have to look into in the future as a further step of reform. But I understand that the Administration's position is to balance the status quo with some of the existing commercial interests in Hong Kong, so as to take a good balancing act between the need for law enforcement agencies to investigate companies and Hong Kong's status as a commercial centre.

However, I note that the Competition Commission is missing from the list of law enforcement agencies. We wish the Administration would not overlook the Competition Commission because it is an important law enforcement agency as far as the Competition Ordinance is concerned. In order for the Competition Commission to effectively investigate companies and their interrelationships, connections and possible collusion, it is very important that the Competition Commission should have access to the list of ultimate beneficial owners of companies.

I do not know why the Competition Commission has been left out, but it is an important law enforcement agency and should be included in the list of law enforcement agencies which have access to, or the power to access, ultimate beneficial ownership information of companies. I wish the Administration would address that point, so that the members of the Competition Commission would have the comfort that it would be one of the law enforcement agencies which would have the power in the future to be included in that list and which would have the power to access the information in question. I believe this would greatly assist its investigation efforts in Hong Kong, where we only have a young competition regime and we need to empower the relevant authorities to use such information.

I note that the Insurance Authority has been included in that list, and there is no reason why the Competition Commission should not be also included.

Deputy President, thank you.
MR KENNETH LEUNG (in Cantonese): The purpose of the Companies (Amendment) Bill 2017 ("the Bill") is to fulfil Hong Kong's international obligations under the Financial Action Task Force by amending the Companies Ordinance (Cap. 622) to require a company incorporated in Hong Kong to keep a register of significant controllers of the company, also known as a significant controllers register ("SCR"), with a view to enhancing the transparency of the company's beneficial ownership. As professional accountants, we support the amendments made by the Bill, as well as an overall strengthening of the combat against money laundering activities.

The proposed new Schedule 5A to Cap. 622 stipulates the minimum beneficial ownership criteria for the specific requirement of keeping an SCR. These criteria include: first, holding directly or indirectly more than 25% of the issued shares in the company; second, holding directly or indirectly more than 25% of the voting rights in the company; and third, having the right to exercise or actually exercising significant influence or control over the company.

I very much hope that the Companies Registry can provide more examples or practice guidelines to illustrate the meaning of "exercising significant influence or control". In many cases, the beneficial interest held by a shareholder may be just 5%, but due to the existence of certain special interests, he may still have significant influence and real control over the company despite his actual stake of only 5%. Such frameworks or shareholding structures exist in different forms and are very common in a commercial society. In view of this, our professional organizations hope that the Government can provide more guidelines after the passage of the Bill.

The new section 653X proposed in the Bill sets out the list of law enforcement officers permitted to inspect SCRs. Yet, as far as I can remember, when the consultation on the Bill was conducted some two years ago, the Government was inclined to allow the public to inspect the information in SCRs. This can, of course, satisfy the public's right to know, and is also a very important source of information for the media. After all, in many foreign jurisdictions where common law is practised, including the United Kingdom, the public is allowed to inspect SCRs.

However, the last part of the Bill provides that only the law enforcement officers belonging to categories (a) to (h) may inspect SCRs. The Government's explanation is that it is necessary to strike a balance between the operating costs
of companies and the protection of privacy. But if the crux of the issue is about our reputation as an international financial centre and our effort to combat money laundering activities, then I think the reform should ultimately be geared towards making SCRs available for inspection by the public.

Nonetheless, the authorities must put in place some safeguards, and should not allow everyone to inspect SCRs. For instance, consideration can be given to requiring the production of proof of identity by members of the public who seek to inspect SCRs, because any information obtained as a result of the inspection may well be used for improper activities; or requiring them to pay a small fee of, say, $10 to $20. I believe the collection of such a small fee is understandable. But if it is provided that only law enforcement officers may inspect SCRs, then I think this list may not be a very comprehensive one.

Moreover, at a meeting of the Bills Committee, I also proposed that the authorities should include in the list other law enforcement agencies, such as the Labour Department and the Mandatory Provident Fund Schemes Authority. Just now Mr Dennis KWOK mentioned the Competition Commission as well.

All in all, combating money laundering can help maintain Hong Kong's status and reputation as an international financial centre, and is an international obligation that we must fulfil. I therefore support the Second Reading of the Bill, and hope that all Honourable colleagues in this Council will also support the Second Reading of the Bill.

Deputy President, I so submit.

MR HOLDEN CHOW (in Cantonese): Deputy President, I speak in support of the Second Reading of the Companies (Amendment) Bill 2017 ("the Bill"). My speech in this session will focus on the Bill. As for the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017, I will only speak on it in the next debate session as per the Agenda of the Council.

Deputy President, as stated by Mr WONG Ting-kwong, Chairman of the Bills Committee, the Bill is a set of amendments proposed in response to the requirements of an international organization. As an international financial centre, Hong Kong must stay in step with the international community. To cope
with the task of combating money laundering, the international organization has indeed put in a lot of effort and made many new requirements. The amendments in the Bill (especially the arrangements relating to the disclosure of the identities of significant controllers, or the registers of them) are precisely aimed at meeting the requirements of the international organization. As I see it, staying in step with the international community to uphold Hong Kong's status and reputation as an international financial centre is what we should do.

However, I would like to express some views here. During the scrutiny of the Bill by the Bills Committee, other members and I gave some views, including that if we are to make any changes to laws and regulations or, to put it simply, make them more stringent to meet the international community's requirements on combating money laundering, we must be careful not to overcorrect. If there is overcorrection, it will harm Hong Kong's business environment. In fact, we have listened to the opinions expressed by many small and medium enterprises for quite some time. They indicate that while the SAR Government appears to have done a lot to combat money laundering, it may have overcorrected or even victimized the innocent. Examples of this include some people's applications for opening bank accounts being rejected, but I am not going to talk about these in detail here.

As regards the amendments concerning significant controllers registers ("SCRs") in the Bill, I think it is necessary to note that we have made it clear in the Bills Committee that our view remains that it is more appropriate for the staff of the Companies Registry and the law enforcement officers specified in the Bill to inspect SCRs, instead of making SCRs available for inspection by the public.

Deputy President, I wish to point out that this is about striking a balance with respect to the privacy of individuals. In addition, we also note that at the meetings of the Bills Committee, many members coincidentally raised one point: if the identities of companies' beneficial owners in SCRs are rashly made public in full under the proposed mechanism, I believe some people may use this as a means to achieve certain other purposes.

Therefore, from the perspective of law enforcement for combating money laundering and combating crime, I think allowing only law enforcement officers or the Companies Registry to inspect SCRs will suffice. If SCRs are suddenly to be made available for inspection by all members of the public today, I am
afraid this is contrary to the principle of protecting the privacy of individuals. I hope to clearly express my view on this. Besides, as I mentioned in my opening remarks, when formulating policies or amending legislation, we must consider the possible side effects on us.

Another point is about compliance costs. As we all know, every time a new piece of legislation is introduced, the affected entities or companies may face increased workloads because of the need to comply with the new requirements of the legislation, or even have to increase manpower to cope with such workloads.

I recall that during the scrutiny of the Bill, I suggested the Government make a simple clarification regarding the following proposal: after the giving of a notice requiring a target to declare the particulars of, or any changes with respect to, a significant controller, they should be reflected in the SCR within seven days. I considered it necessary to get this straight first, and the Government clarified back then that the relevant requirement is not that the information in the SCR must be amended within seven days after a change with respect to a significant controller has occurred. This must be handled carefully. As I clearly pointed out in the Bills Committee, we cannot lay down such a requirement because in the event that a significant controller does not give any notice after registering an item on his own, resulting in the SCR not being updated as required within seven days of the material day, it can easily become a case of victimizing the innocent. In the light of this, the Government has clarified that a company, after giving a notice to a target, shall be required to update its SCR within seven days of receipt of the target's reply. In my view, this is a prudent approach that can ensure that no company will be victimized. I thus consider it necessary to make this clear.

Deputy President, I have just spoken in support of the Second Reading of the Bill, and I will speak on the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 later on. Deputy President, I so submit.

DEPUTY PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)
DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. Then, the debate will come to a close.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, first of all, I would like to thank Mr WONG Ting-kwong, Chairman of the Bills Committee, and other members of the Bills Committee, as well as the Legislative Council Secretariat and the legal adviser, for their tireless efforts, which have contributed to the smooth completion of the scrutiny of the Companies (Amendment) Bill 2017 ("the Bill").

The main purpose of the Bill is to enhance the transparency of beneficial ownership of Hong Kong companies and strengthen the anti-money laundering and counter-terrorist financing ("AML/CTF") regulatory regime in Hong Kong, so as to fulfil our obligations under the Financial Action Task Force ("FATF").

FATF, established in 1989, sets international standards on combating money laundering and preventing terrorist financing. As a member of FATF and an international financial centre, Hong Kong is obliged to join forces with the international community to combat money laundering and terrorist financing activities. Although the AML/CTF regulatory framework in Hong Kong is generally robust and effective, relevant international standards have kept evolving because of the ever-changing financial market and security landscapes. There are certain deficiencies in Hong Kong's AML/CTF regime as against the FATF recommendations. One is the absence of statutory requirements for companies to keep their beneficial ownership information.

At present, the Companies Ordinance requires Hong Kong companies to disclose their legal ownership, such as information on their members, directors and company secretaries, but does not require companies to keep information on their ultimate beneficial owners.

In line with the requirements of FATF, we have, after consulting the industry and the public, proposed amending the Companies Ordinance to require a company incorporated in Hong Kong to:
(a) take reasonable steps to ascertain the individuals and legal persons that have significant control over the company ("significant controllers"), give notices to them, and obtain information about their identities; and

(b) maintain a register of significant controllers of the company, containing the required particulars of their identities, for inspection by law enforcement officers upon demand.

Listed companies will be exempted from the relevant requirements, as the Securities and Futures Ordinance has a more stringent regime requiring every listed corporation to keep a register of interests in shares.

The Bill requires an applicable company to identify and ascertain its significant controllers. Significant controllers are classified into two groups: registrable persons and registrable legal entities. A registrable person means an individual who ultimately has a controlling ownership interest (e.g. holding more than 25% of the voting rights or shares) in the company, or who exercises control of the company through other means.

Besides, a legal entity—whether or not it is formed or incorporated in Hong Kong—is a registrable legal entity of an applicable company if it meets the specified conditions and if it is a legal entity immediately above the company in the company's ownership chain.

The Bill also requires an applicable company to keep a significant controllers register ("SCR") at its registered office or a prescribed place in Hong Kong. Law enforcement officers specified in the Bill may, under the powers conferred by the law of Hong Kong, demand to inspect the SCR of a company for the purpose of performing a function relating to the prevention, detection or investigation of money laundering or terrorist financing.

Just now Dr KWOK Ka-ki mentioned his concerns about law enforcement powers. On this score, I wish to point out here that the current Bill already sets out a list of relevant law enforcement officers, including officers of the Customs and Excise Department, officers of the Hong Kong Monetary Authority, officers of the Hong Kong Police Force, officers of the Immigration Department, officers
of the Inland Revenue Department, and officers of the Insurance Authority. They are all responsible for preventing, detecting or investigating crimes related to money laundering or terrorist financing. I wish to point out and emphasize here that these law enforcement officers may not inspect an SCR at will. They may only demand to inspect an SCR according to actual needs in the course of performing a function relating to the prevention, detection or investigation of money laundering or terrorist financing.

In addition, different Members including Mr James TO, Mr Dennis KWOK, Mr Kenneth LEUNG and Mr Holden CHOW just now expressed their views on the list of relevant law enforcement officers. I wish to point out here that the list set out in the current Bill has been carefully crafted to include only officers of the Companies Registry and those officers who perform functions under the law of Hong Kong that are related to the prevention, detection or investigation of money laundering or terrorist financing. However, to cater for future needs, we have reserved a regulation making power for the Financial Secretary under the Bill. The Financial Secretary may make regulations to specify any other department or agency of the Government, or any other statutory body, as a law enforcement officer. We will keep in view the implementation of the SCR regime and review the specified list under the Bill whenever necessary to ensure that it is in keeping with law enforcement needs.

To enable the public to better understand the contents of the Bill, the Companies Registry will soon commence a series of promotional and educational activities, including holding briefings, sending letters to applicable companies, distributing promotional leaflets and setting up a hotline. The Companies Registry will also issue guidelines on the requirements of the ordinance to help applicable companies transition to the new regime.

Deputy President, FATF is one of the few international organizations that Hong Kong has joined as an independent member. At a time when the world is making efforts to combat money laundering and terrorism, Hong Kong, being a responsible and crucial member of the international community, must strictly comply with the requirements of FATF to strengthen our regulatory regime. Hong Kong will undergo a mutual evaluation by other member states of FATF in 2018. The amendments in question are very important to our fulfilment of the relevant FATF obligations and can reduce the risk of money laundering and
terrorist financing in enterprises, thereby upholding Hong Kong's reputation as an international financial centre and a safe and clean city for doing business. The Bill has received the support of the Bills Committee. I also heard the Members who spoke just now expressing support for the Bill. I earnestly request the Legislative Council to pass the Bill.

Deputy President, I so submit. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the Companies (Amendment) Bill 2017 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

DEPUTY PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

DEPUTY PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.


Council became committee of the whole Council.

Consideration by Committee of the Whole Council

DEPUTY CHAIRMAN (in Cantonese): Council now becomes committee of the whole Council to consider the Companies (Amendment) Bill 2017.
COMPANIES (AMENDMENT) BILL 2017

DEPUTY CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Bill.

CLERK (in Cantonese): Clauses 1 to 6.

DEPUTY CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY CHAIRMAN (in Cantonese): If no Member wishes to speak, I now put the question to you and that is: That clauses 1 to 6 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

DEPUTY CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

DEPUTY CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

DEPUTY CHAIRMAN (in Cantonese): All the proceedings on the Companies (Amendment) Bill 2017 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I now report to the Council: That the Companies (Amendment) Bill 2017 has been passed by committee of the whole Council without amendment. I move the motion that "This Council adopts the report".

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

In accordance with Rule 59(2) of the Rules of Procedure, the motion shall be voted on forthwith without amendment or debate.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

DEPUTY PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

DEPUTY PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

Third Reading of Government Bill

COMPANIES (AMENDMENT) BILL 2017

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Deputy President, I move that the

Companies (Amendment) Bill 2017

be read the Third time and do pass.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Companies (Amendment) Bill 2017 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If no Member wishes to speak, I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

DEPUTY PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

DEPUTY PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

Resumption of Second Reading Debate on Government Bill

DEPUTY PRESIDENT (in Cantonese): This Council resumes the Second Reading debate on the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill").

ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (FINANCIAL INSTITUTIONS) (AMENDMENT) BILL 2017

Resumption of debate on Second Reading which was moved on 28 June 2017

DEPUTY PRESIDENT (in Cantonese): Mr WONG Ting-kwong, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's Report.

MR WONG TING-KWONG (in Cantonese): Deputy President, in my capacity as Chairman of the Bills Committee on Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 and Companies (Amendment) Bill 2017 ("the Bills Committee"), I submit the Bills Committee's Report to the Council and report on the major deliberations of members of the Bills Committee on the Bill.

The main objective of the Bill is to amend the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance ("AMLO") by extending the customer due diligence ("CDD") and record-keeping requirements on financial institutions ("FIs") to designated non-financial businesses and professions ("DNFBPs"), namely accounting professionals, legal professionals, estate agents, and trust or company service providers ("TCSPs"); and introducing a licensing regime for TCSPs. The Bills Committee has held a total of eight meetings to deliberate on the Bill with the Government and receive views from deputations. The Bills Committee supports the proposals of the Bill in general, which would align Hong Kong's anti-money laundering and counter-terrorist
financing ("AML/CTF") regulatory regime with international standards as promulgated by the Financial Action Task Force ("FATF").

(THE PRESIDENT resumed the Chair)

Some members of the Bills Committee have expressed concern that the extension of the Bill's application of the statutory CDD and record-keeping requirements to DNFBPs has not taken into account the different risks and operational needs of DNFBPs, which will also increase their compliance costs.

The Government has explained that AMLO has prescribed the CDD and record-keeping requirements applicable to FIs and DNFBPs in accordance with FATF standards and a risk-based approach. Schedule 2 to AMLO has set out the CDD requirements applicable in different risk situations. Taking into account the lower risks of DNFBPs as compared to FIs, and having regard to the principle of professional self-regulation, the Bill has proposed that accounting professionals, legal professionals and estate agents be subject to the regulatory oversight of their respective regulatory bodies only, namely the Hong Kong Institute of Certified Public Accountants, The Law Society of Hong Kong ("The Law Society") and the Estate Agents Authority, respectively. Taking into account industry-specific considerations, these regulatory bodies can publish specific guidelines to provide guidance in relation to the operation of the requirements in Schedule 2 to AMLO. The Registrar of Companies ("the Registrar") will also be empowered to issue guidelines to facilitate TCSP licensees in implementing CDD and record-keeping requirements. The Government has stressed that non-compliances with the requirements in Schedule 2 to AMLO by DNFBPs would only result in disciplinary sanctions, instead of the criminal sanctions under AMLO as in the case of non-compliances by FIs.

Some members of the Bills Committee have pointed out that The Law Society has issued Practice Direction P ("PDP") setting out requirements relating to anti-money laundering for all law firms, solicitors and foreign lawyers practising in Hong Kong. Given that PDP has been operating smoothly, these
members have considered that the legal professionals should be required to follow the requirements in PDP instead of those in Schedule 2 to AMLO.

The Government has explained that the principle for FIs and DNFBPs to conduct CDD and maintain records on transactions and information obtained through CDD measures, as required by FATF, must be set out in law. PDP does not have the force of law, and CDD and record-keeping requirements under PDP do not amount to statutory requirements. Based on overseas experience, if Hong Kong does not prescribe CDD and record-keeping requirements for legal professionals in the law, it is very likely that Hong Kong will fail the upcoming FATF mutual evaluation scheduled for 2018-2019. Having considered the views of the Bills Committee and The Law Society's suggestions, the Government has introduced Committee stage amendments ("CSAs") to amend the proposed new section 7(5A) of AMLO to clarify that The Law Society has the sole discretion to determine the content of PDP in providing guidance to legal professionals in relation to the operation of requirements in Schedule 2 to AMLO.

The Bills Committee has stressed that Hong Kong should not implement AML/CTF requirements that are beyond FATF recommendations so as to minimize the compliance costs of FIs and DNFBPs and to maintain their competitiveness. Noting that the record-keeping period under AMLO is six years while the corresponding FATF recommendation is merely at least five years, a member has urged the Government to reduce the current six-year requirement in AMLO to align with the FATF recommendation.

The Government has advised that the proposal of requiring DNFBPs and FIs to maintain customer records for six years has received general support during the consultation. However, having regard to the views of the Bills Committee, the Government has introduced CSAs to amend section 20(2) and (3) of Schedule 2 to revise the record-keeping requirement from six years to at least five years.

The Bills Committee has also noted that the Bill has proposed to remove section 18(5) of Schedule 2 to AMLO so that FIs can rely on legal professionals, accounting professionals, licensed TCSPs as well as other FIs as intermediaries to carry out CDD measures. However, there is no provision in the Bill to allow DNFBPs to rely on other qualified DNFBPs as intermediaries to carry out CDD
measures on their behalf. Some members have suggested that such arrangements be included in the Bill, under which such intermediaries should include both qualified professionals in Hong Kong and overseas.

The Government has advised that it is not common for DNFBPs to rely on other DNFBPs as intermediaries to carry out CDD measures on their behalf. Nonetheless, having regard to the views raised by the Bills Committee, the Government will move CSAs to amend the proposed section 18 in Schedule 2 to allow DNFBPs to rely on intermediaries to carry out CDD measures. Under the proposed CSAs, "specified intermediaries" include qualified professionals both in Hong Kong and in an equivalent jurisdiction.

Regarding the proposed TCSP licensing regime, the Bills Committee has enquired why the Government has not considered setting up a self-regulatory body for TCSPs in lieu of a licensing regime, and whether the authorities will consider introducing requirements on TCSPs such as qualifications, experience, and competency under the licensing regime so as to enhance the professional development of the sector.

The Government has explained that the proposed licensing regime for TCSPs is introduced for the purpose of meeting FATF's relevant requirements on AML/CTF and not as a professional registration system for individual practitioners. In order to minimize the compliance costs of TCSPs, the licensing regime has not included any professional registration requirements. However, the Government will continue the dialogue with relevant stakeholders on the long-term professional development of the TCSPs and keep in view implementation of the licensing regime to see if any further refinement is required in future.

Regarding the transitional arrangements for existing TCSPs to migrate to the new licensing regime, a member of the Bills Committee has suggested allowing existing TCSPs to continue carrying on their businesses until their appeal against the Registrar's decision to refuse granting the TCSP licence has been determined.

The Government has explained that under the proposed new section 53ZQ of AMLO, an existing service provider carrying on a trust or company service business and holding a valid business registration certification is deemed to have
been granted a licence ("a deemed licensee") when the Bill commences. A service provider who wishes to continue with the business is required to apply for a licence within 120 days from the commencement of the Bill. The Government has also clarified that pursuant to the proposed new section 53ZQ(4) and the existing section 75(1)(c), if the deemed licensee applies for a licence during the transitional period but the application is not granted and there is an application to review the decision, the deemed licence would continue to have effect until the decision not to grant the licence is confirmed or otherwise varied by the Review Tribunal, or when the application for review is withdrawn.

The Bills Committee has also examined the preparation work of the Companies Registry for implementing the proposed TCSP licensing regime. The Bills Committee has urged the Registry to provide clear guidelines to enhance the industry's understanding of the licensing regime, in particular, the circumstances under which practitioners are required to obtain TCSP licences; and to facilitate licensed TCSPs in implementing CDD and record-keeping requirements.

The proposed new section 53ZO of AMLO provides that, except for an indictable offence, proceedings may be instituted for an offence under Part 5A (namely the regulatory regimes applicable to TCSPs) within 12 months after the offence is discovered by, or comes to the notice of, the Registrar. Mr James TO has expressed concern over the present formulation. Considering the provision to be uncertain, he has requested the Government to refine the provision.

The Government has responded that the proposed new section 53ZO is the equivalent provision of the existing section 53 which applies to money service operators ("MSOs"). There are a number of other legislation (for example, the Marriage Ordinance and the Mandatory Provident Fund Schemes Ordinance) in which the time limit for prosecution runs from the date of discovery, or notice, of the offence. Hence, the provision is not a new formula. Although Mr James TO has taken note of the Government's explanation, he has indicated that he will move CSAs to state a time limit for prosecution adopting the formulation of "after the commission of the offence".

Apart from the CSAs proposed by the Government mentioned above, the authorities will also move some technical amendments. The Bills Committee has no objection to the CSAs proposed by the Government and will not propose
any CSAs. The Bills Committee supports the resumption of the Second Reading debate on the Bill.

The following is my personal views on the Bill. As in the case of the Companies Ordinance which I have previously mentioned, the authorities have proposed the Bill in order to refine Hong Kong's AML/CTF regulatory regime based on FATF requirements. In this way, Hong Kong's AML/CTF regulatory regime will be aligned with the international standards as promulgated by FATF.

The Bill seeks to enable Hong Kong to fulfil its international financial obligations. All members have expressed their support for this objective during the deliberation. However, given the wide-ranging impact of the Bill, members have raised a number of questions and made refinement suggestions during the deliberation in order to reduce the problems faced by the sector upon the passage of the Bill. This will enhance the effectiveness of the Bill by minimizing the compliance burden of the sector.

During the deliberation, members have mainly raised the following questions: Can solicitors practising in Hong Kong only follow PDP issued by The Law Society on anti-money laundering regulations but not the requirements in Schedule 2 to AMLO? Are DNFBPs who are subject to the regulation of the Bill allowed to rely on other qualified DNFBPs as intermediaries to carry out CDD measures on their behalf?

Regarding the question on whether solicitors practising in Hong Kong should be allowed to follow PDP issued by The Law Society but not the requirements in Schedule 2 to AMLO, the authorities have repeatedly stressed during the deliberation of the Bill that PDP, which has set out The Law Society's requirements relating to anti-money laundering, has no legal effect itself, thereby failing to meet the requirements of FATF. Singapore and other overseas jurisdictions have also attempted to use the guidance issued by FATF for reference only. Given their failure to make legislation as requested by FATF, they have subsequently been rated as an "uncooperative economy" by FATF. In the end, they have to amend the relevant legislation as a remedy.

In addition, the authorities have also made concessions by proposing CSAs to set out The Law Society's power, including the sole discretion to determine the content of any guidance provided to legal professionals in relation to the operation of requirements in Schedule 2 to AMLO. This arrangement is already
very appropriate for achieving the necessary balance between self-regulation of the legal sector and FATF's requirements.

As to whether DNFBPs should be allowed to rely on other DNFBPs as intermediaries to carry out CDD measures on their behalf, the authorities have noted during the early stage of the deliberation of the Bill that the practice in itself is not common. However, having regard to the views raised by members, and with a view to bringing convenience to the sector, the authorities have taken the views of the Bills Committee on board by proposing CSAs to facilitate such arrangements. This is an outcome of the positive interaction between members and the authorities in the deliberation of the Bill. The Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") and I both support the decision.

Generally speaking, during the deliberation of the Bill, the authorities have been able to adopt the views of members as far as practicable in order to improve the Bill. This move is highly commendable. Nevertheless, it is impossible for the authorities to adopt those completely unfounded views of members as well. For example, Mr James TO has made a request regarding the time limit for prosecution of offences relating to the regulation of TCSPs. He suggested that the time limit be changed from 12 months after the offence is discovered by, or comes to the notice of, the regulatory authorities to 12 months "after the commission of the offence".

In response to the question, the authorities have explained that the formulation adopted in the Bill is consistent with other existing legislation in relation to the time limit for prosecution applicable to MSOs. In both cases, the time limit for prosecution runs from the date of discovery, or notice, of the offence by the regulatory authorities. Although Mr James TO has taken note of the Government's explanation, he has still proposed a CSA to request the adoption of the formulation of "after the commission of the offence" in prescribing the time limit for prosecution.

I do not quite understand the motives or considerations of Mr TO. However, DAB and I are of the view that if the formulation of "after the commission of the offence" is used to prescribe the time limit for prosecution, some offenders may be able to delay the discovery of their offences by law enforcement and regulatory authorities with good cover-up skills. In this way, their offenses will be discovered at a later time or even after the expiry of the time
MR JAMES TO (in Cantonese): President, the Companies (Amendment) Bill 2017 passed earlier and the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill") now under discussion are actually a pair and the two bills have been scrutinized by the same Bills Committee. As I said earlier, I understand that the relevant international organizations and international agreements require Hong Kong to keep abreast of the times and cooperate in combating money laundering or terrorist financing. In fact, many of their requirements will in effect assist overseas countries in combating wilful tax evasion or even lawful tax evasion.

Just now, I have explained in detail for 10 minutes that we should adopt the principle of meeting only the minimum and the most basic requirements. Why? As I have given a detailed explanation earlier, I will not repeat my views on the Bill. The regulatory requirements can be numerous and will be updated incessantly. It will be meaningless for Hong Kong to do the relevant work in advance. We will not be awarded or commended, or obtain any benefits as a result. Instead, such an approach will hamper the competitiveness of our economy, or even increase the burden of the persons or trades concerned and create troubles for them. However, we must meet the basic requirements because Hong Kong has no choice but to participate in the game of the international organizations. That is my basic stance and I will not repeat what I have said.

President, I do not have to declare interests in the previous discussion of the Companies (Amendment) Bill 2017, but have to do so regarding the discussion of the Bill because the regulations involved are relevant to my profession as a practising solicitor.

President, the Bill extends the regulatory scope to cover a number of non-financial businesses and professions ("DNFBPs"), including solicitors, accountants, estate agents, and trust or company service providers ("TCSPs"), and provides that they must comply with the customer due diligence ("CDD")
requirements. In fact, it is not easy for an ordinary person to understand the relevant standards. It will be easier for solicitors to understand because The Law Society of Hong Kong ("The Law Society") has issued the detailed Practice Direction P ("PDP") which the entire profession has followed for many years, solicitors thus generally know what the requirements are. I asked the Government at a meeting of the Bills Committee in what ways The Law Society's PDP did not meet the requirements of the Government. In fact, the Government listed a number of requirements in a paper. Certainly, these requirements are not crucial and will not affect any major principles. They represent some changes only. Thus, after the passage of the Bill, solicitors, as persons who must comply with the requirements, will find it easier to meet and comply with the requirements. However, if one is not a solicitor or an accountant, perhaps Mr Kenneth LEUNG may respond later, or if you are an estate agent or a TCSP, I expect you will need an adjustment period. You will need to learn the standards in depth before you can understand them.

Certainly, the relevant authorities such as the Estate Agents Authority will issue guidelines, but I think the adjustment period cannot be too short. The Government is going hell for leather to pass the Bill and I have to reprimand it in a word or two. The provisions of the Bill have been precisely drafted and many technical issues are involved. I do not know the attitude of the Government. Perhaps it used to think that as there are royalists in the Legislative Council, any Government bill will be passed, no matter how urgently it is introduced. As royalist Members have seized the chairmanships of Bills Committees, they will even stop us when we want to thoroughly scrutinize a bill. In my view, since LEUNG Chun-ying Government took over the administration, the Government has become haughty. The Government has completely ignored Members, particularly the democrats. During the eras of Donald TSANG or TUNG Chee-hwa, there were interactions and discussions between the Government and Members. If Members asked a question in detail, the Government would give thought to answer it. If it was not a matter of principle, the Government would try to narrow the gap with Members by taking initiatives such as proposing Committee stage amendments ("CSA"), alleviating our concerns in the debate on the resumption of Second Reading of a bill, or clarifying points very patiently to the trades. Such practices were gone in LEUNG Chun-ying's era. I hope the current-term Government will change, at least in its attitude. I do not know what "the boss" is thinking, but at present, there is actually no room for discussion.
Mr WONG Ting-kwong said earlier that there was positive interaction between the Government and Members. Sorry, I disagree. Perhaps, to Mr WONG Ting-kwong, positive interaction means the attendance of government representatives at meetings of the Bills Committee and spending half an hour each time explaining the circumstances and reasons for proposing amendments. Nevertheless, in my view, since the Government considers that it has secured enough votes, it needs not pay any attention to us. This kind of autocracy and attitude is very bad. Sorry, I disagree with Mr WONG Ting-kwong's saying that there is positive interaction. I am not criticizing individual public officers who are responsible for the two bills; instead, I am criticizing the attitude of the Chief Executive, Secretaries of Departments and Directors of Bureaux in general.

Finally, the Government realized that things had gone wrong, as there was a deadline. Having a deadline has its advantages and disadvantages. As the Government introduced the Bill into the Legislative Council at a very late stage, Members simply did not have enough time to scrutinize the Bill. The Government then pressed the Chairman of the Bills Committee to complete the deliberation expeditiously. On the other hand, the Government also has a blind spot. There was a possibility that the Bill really could not be passed in time. Even though the Rules of Procedure have been amended and Members might not filibuster, if the democrats spoke actively, the Bill might not be passed before the deadline. The Government realized that the situation was undesirable because Hong Kong has to comply with this international obligation. Certainly, as a responsible Member who has played the game of international pressure for about 20 years, I have to strike a balance carefully. Do not look down on me, thinking that I will certainly fear the Government. Finally, the Government compromised and would incorporate the views of Members in CSAs. Whether the Government is afraid of us is not important; what matters is that it seems that the Government has finally accepted my views and most of the views of other Members.

However, a rather regrettable incident occurred which pro-establishment Members may describe as a fly in the ointment. Two days ago, The Law Society suddenly issued a letter, saying that the development did not conform to its previous discussion with the Government. Yet, the Government now proposed a CSA and claimed that it has been accepted by The Law Society. Why did this incident happen? I have conscientiously scrutinized the Bill and frankly speaking, my impression is that the Government has reached an agreement with The Law Society on the CSA. I am not saying that the
Government has to accept all the views of The Law Society; I have not said so. Nevertheless, if the Law Society and the Government have actually not reached a consensus, I think they should tell Members earlier so that we can hold an additional meeting or at least have some time for consideration. It is most undesirable that The Law Society suddenly discovered two days ago that the Government had not accepted its views, and I do not know how The Law Society found this out. Then, The Law Society issued a letter which made us greatly confused and the Government responded.

Certainly, President, we will perform our final responsibility. We will decide who is right and who is wrong; whether the Government has considered the important requests of The Law Society before proposing the CSAs; whether the CSAs are fair and will be conducive to enforcing the laws in general, as well as preventing Hong Kong from not complying with the international requirements. However, this development is like having a sword of Damocles over us Members, but not over the Government. As responsible Members, we cannot let the sword fall on us, which will cause harm to Hong Kong as a whole, or the incident of President HU Jintao asking the President of France not to blacklist Hong Kong a few years ago would recur.

If the Government has not reached a consensus with The Law Society, I think it should at least tell us; or it can even tell us that The Law Society has expressed certain views but the Government disagreed. The Government should tell the Bills Committee so that Members can consider in advance whether they will support the proposals of The Law Society. Representatives of the profession including myself, Mr Dennis KWOK, or other Members such as Dr Junius HO, a former President of The Law Society, or even Mr Holden CHOW who has been very keen in discussing the Bill, and actually every Member may consider what should be done or whether we should propose any CSAs. We may even propose CSAs which do not entirely comply with the requests of The Law Society or we may include some middle-of-the-road proposals.

Nevertheless, we really did not know that The Law Society suddenly issued a letter two days ago, acting as if it were an aggrieved daughter-in-law, saying that if the Government did not respond to the letter, it would have no choice but to disclose the matter. I think this situation is really highly undesirable because we have already tried hard to expedite the scrutiny of the Bill. However, I remember that some Members, including Dr Junius HO, queried at the last meeting about the rush to pass the Bill. He said that the matter could be
postponed for a few months. I think we should take the overall situation into account and so I said, "Dr HO, we cannot postpone the matter for a few months". Nonetheless, the Government should really be frank and open. Even if some people have expressed disagreements, we have thoroughly scrutinized the Bill with the Government over a long time, we have attached great importance to the views of The Law Society because it has handled such issues for a long time and the Government said that it had done a good job. Thus, the Government should not put Members in an embarrassing position. I suspect that Mr Dennis KWOK will find it even more embarrassing because he is the representative of the legal sector.

President, I will also talk about the new provisions concerning TCSPs. These provisions may make members of the general public breach the laws inadvertently. For example, a man may ask another person to act as his executor. When the will takes effect upon the man's death, the person becomes the trustee. If the testator thought that it was not good to ask someone to offer help for free, he might pay the executor a reasonable fee. Under what circumstances does the executor have to apply for a licence? I cannot say that the executor does not have to apply for a licence for handling only one case. However, some members of the church may ask a person to be their executor, it will not be a problem if they ask me because I am a qualified solicitor and I am entitled to the exemption. However, if the executor is not a practicing solicitor, but an accountant or a retired lawyer, and if he received a small amount of payment from the testator who might feel uncomfortable for receiving free help, will the executor be considered as carrying on business after handling a few cases? The executor may think that he has retired and is not carrying on business. However, if the Government considered that the executor should obtain a licence and charged the executor for carrying on a business of trust services without a licence, he might have to bear criminal liability. The result will be disastrous. I think a very big risk exists.

Worse still, a company may use a certain place as its registered office and pays $1,000-plus as rent. There are many such offices in Causeway Bay and Mong Kok, etc. The lessee may or may not set up a small office in the rented place. In many cases, the lessee rents a place so that it will have an office address. The company which rents out the office may, surprisingly, become a TCSP and it may have to obtain a licence. I think that is not the original intent of the Bill. Certainly, the Government may say that since the international agreements require Hong Kong to implement thorough regulation, the
Government has no choice but to comply with the requirement and that is beyond negotiation. I can only say that I hope the Government will step up publicity and education so that people will not breach the laws inadvertently.

President, I do not have enough time to talk about my CSAs now, I will give a detailed explanation when I move them later.

MR DENNIS KWOK: President, as I said during the deliberation of the Companies (Amendment) Bill 2017, which was passed a few moments ago, we support the Administration's effort to counter money laundering and terrorist activities by following the international standard set out by the Financial Action Task Force ("FATF") in imposing new measures on various professional bodies, professions and trades in Hong Kong, so that Hong Kong will continue to be one of the most compliant international financial centres and professional services centres in the world, and we will not be accused of harbouring money laundering activities or terrorist activities by way of our banking system or professional services. In my earlier speech, I mentioned that the Companies (Amendment) Bill 2017 and the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill") are interconnected and they are both designed with one goal in mind, which is to ensure that Hong Kong will follow international standards when it comes to anti-money laundering and counter-terrorist measures. I have also pointed out that the legal profession, to be fair, has always been one of the pioneers and most diligent professional bodies in ensuring that their members will comply with anti-money laundering measures. We are one of the first to have a professional practice code which requires members of The Law Society of Hong Kong ("The Law Society") to comply with anti-money laundering measures.

Now, we appreciate that these measures and requirements will change over time as we have seen in this case. Owing to new circumstances and new global development, there may be more stringent measures down the line that The Law Society, as a professional body, and members of the legal profession in general, will have to comply with. We appreciate that. But we simply ask the Administration to cater for the specialty of each of the professional services which it is trying to regulate, and try to understand the different needs and different circumstances that are unique to that profession, and in this case, the solicitors. When the Government is trying to impose the same anti-money
laundering measures and requirements on all professional services and trades, difficulties are bound to be faced by particular professions and trades.

As in this case, Members are well aware that The Law Society has written many times to express its concerns over the drafting of the Bill. I emphasize the word "drafting" because a lot of the provisions should be drafted more carefully in order to cater for the specific circumstances of the legal profession. In this case, as I have said, we have already implemented Practice Direction P for many, many years, and the system is working well. The system is showing that we are diligent when it comes to complying with anti-money laundering measures. If there is any breach of Practice Direction P, the member in question is liable to be disciplined by The Law Society, which is the authority under the Legal Practitioners Ordinance ("LPO") responsible for the regulation of solicitors. So, from their point of view, or indeed, from our point of view, we have already satisfied FATF's requirements. Now there may be some differences of opinion in this regard.

The Administration is of the view that The Law Society needs to move forward and comply with specific measures newly imposed by FATF. So we have to disagree on that point. But even assuming the Government is right in that we have to improve or redraft parts of Practice Direction P, over the course of the scrutiny of the Bills Committee, we have negotiated and I thank the Administration for listening to our views and suggestions as to how to improve the drafting. Now, the drafting, as it stands, is not perfect. There are issues, as pointed out by The Law Society in their letter of yesterday, that are still outstanding. But the ultimate direction of the latest amendments proposed by the Administration is to ensure that firstly, The Law Society will be the only legal authority that has the power of regulation over solicitors. Secondly, The Law Society will have the sole discretion to decide on the contents of Practice Direction P, so that going forward no other bodies except The Law Society will have the authority to decide how to carry out the enforcement and implementation of Practice Direction P. If Practice Direction P is deemed to be out of sync in anyway with the anti-money laundering obligations as imposed by the Bill, The Law Society will have the sole discretion to decide how to proceed on that issue.

The Law Society is of the view that the existing requirements under Practice Direction P have already complied with the requirements of FATF. That may or may not be the case but I will leave it to The Law Society Council to decide how to proceed with regards to Practice Direction P. But I would be
extremely grateful if the Administration can confirm in its speech to be delivered later that this is the understanding. This undertaking will be put on record and will give comfort to the legal profession. The Law Society will be confirmed that it is the only legal authority, and it has the sole discretion to decide on the contents of Practice Direction P going forward. So, I am seeing nods from the Secretary and I would welcome clarification on the record on those points.

Now, moving forward, the legal profession, as I have said, has been working hard to ensure that they comply with anti-money laundering measures and requirements, as well as comply with international standards. However, the lack of flexibility of these requirements will create additional, significant and unnecessary costs when it comes to compliance for law firms and legal practitioners in Hong Kong. We are concerned that these additional costs and requirements may have a detrimental effect on Hong Kong as an international professional services centre. As the Administration would recognize and appreciate that Hong Kong is one of the best professional services centres, certainly in Asia and around the world, we do not want to burden our professionals with unnecessary and excessive anti-money laundering measures. That will hamper Hong Kong as an international trade and professional services centre. That is hopefully not the result of the Bill. We would welcome if the Administration would reaffirm and reassure members of the profession in Hong Kong that their compliance with anti-money laundering requirements would not have the detrimental effect of imposing extra costs and extra time on them, as that would in turn hamper their ability to provide professional services to their clients in Hong Kong.

Thirdly, as I have said, I appreciate that the Government has offered solutions to try to address some of the concerns of The Law Society. But, unfortunately, not all concerns and issues are addressed by the Administration. So, for the record, I would like to set out those concerns. First, amendments will be made to new section 9A(1AAC) of LPO, stating that The Law Society Council must take into account Practice Direction P, which has already been done, when considering a conduct involves an alleged breach of the anti-money laundering requirements of the Bill. New section 9A(1AA) refers to the anti-money laundering/counter-terrorist financing requirements set out in Parts 2, 3 and 4 of Schedule 2 of the Bill.

Any amendment to LPO must be fully consulted with The Law Society and perhaps the Judiciary because the Chief Justice also has a role when it comes to
amending LPO. Strictly speaking, of course, we are not deliberating on the amendments to LPO at this every moment, but as President, you would appreciate that all the two bills are connected as they are part and parcel of an overall amendment to the existing statutory regime. So, they must be looked at together.

Now, we are of the opinion that Practice Direction P should be given the only clear authority in the regulation of solicitors. The Law Society is concerned that there may be other relevant legal bodies or relevant authority which may issue guidelines that may prevail over Practice Direction P. If that is not the case, then I would invite again the Administration to clarify that there is no other relevant legal authority that could issue guidelines to regulate solicitors. Really The Law Society is the only legal authority that has the authority to decide and implement and execute Practice Direction P. So, if The Law Society still has those concerns as stated in its recent letter, then this is an occasion where I would urge the Administration to clarify, so that everything could be read into the record of the Legislative Council.

The next matter is also in relation to LPO and definition of Practice Direction P. Their concern is that if you read the definition of Practice Direction P in conjunction with section 7(1) of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance as amended by the Bill, it also refers to the relevant authority or regulatory body. As I have said, The Law Society is slightly concerned as what is meant by the relevant authority or regulatory body. I would welcome clarification in that respect.

The last point which Mr James TO has also mentioned is in relation to the trust or company service providers. What happens if the trust or company service providers are also solicitors and run by law firms? My understanding of the Bill is that if a solicitor is running a trust service company, the solicitor will only have to comply with the requirements as set out in Practice Direction P. So long as he or she has done so, then he or she would have complied with anti-money laundering requirements under the relevant laws and regulations.

Again, I would welcome clarification in that respect because there is some concern that there would be two sets of requirements imposed on trust or company service providers that are owned and run by law firms. My understanding is that the law firms in question would only have to comply with Practice Direction P. In other words, there is no risk of requiring them to
comply with two sets of guidelines which indeed would be detrimental to professional services in Hong Kong.

Thank you, President.

MR KENNETH LEUNG (in Cantonese): President, I thank Mr James TO and Mr Dennis KWOK for speaking on the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill"). Before I express my personal views, I would like to describe some phenomena.

My close ally Mr Dennis KWOK has reservation about the Bill because many law firms have some views on the costs, time and resources required for compliance. The Hong Kong Bar Association also has strong reservation about the Bill as it has already developed its own guidelines to combat money-laundering. Nonetheless, I wish to clarify that there are numerous law firms in Hong Kong which vary in types and businesses. I surely appreciate and understand the confusion and difficulties encountered by many small and medium law firms as a result of the implementation of the customer due diligence ("CDD") and record-keeping requirements. I do understand, but I can tell Members that many large-scale international law firms have actually done a lot more and the requirements on CDD and anti-money laundering are more stringent than that stipulated in the Bill. In sum, if the legal sector has reservation about the Bill, I will absolutely respect its view, as I am also a legal practitioner, a member of the legal sector. Of course, another hat that I am wearing is a professional accountant, so I will express the views of professional accountants on this Bill later on.

As mentioned by many colleagues, the Bill seeks to meet Hong Kong's anti-money laundering and counter-terrorist financing obligations imposed by the Financial Action Task Force ("FATF") by expanding the scope of the legal provisions on the CDD and record-keeping requirements to legal professionals, accountants, estate agents, and trust or company service providers; and introducing a licensing regime for trust or company service providers to require that, in addition to submitting licence applications to the Registrar of Companies, these service providers must also satisfy the fit-and-proper test before they can engage in the business of providing trust and company services.
All in all, I support the Second Reading and passage of the Bill. With the constant changes of the financial market and the operation safety environment of Hong Kong, the relevant international standard will also be constantly enhanced. In the face of these international requirements, be it anti-tax avoidance, anti-money laundering or anti-terrorism, the Government of Hong Kong, an international city, should be ready to meet the minimum requirements, but it should not go overboard, which is very important. The Government should only meet the minimum requirements because Hong Kong is just a tiny international city. If it goes too far in every respect, it will have to deploy considerable human, financial and material resources to achieve compliance. And yet, should we deploy all our resources to achieve compliance, instead of focusing our effort on more constructive measures that can enhance the productivity of Hong Kong? I am not saying that compliance is meaningless, I simply want to stress that the Government is only required to meet the least or minimum requirements imposed by the international community, including the capital requirement of banks.

We oppose the financing or illegal activities of terrorists, such as drug trafficking and prostitution, through which money is converted into legitimate or seemingly legitimate wealth. This is a very serious problem. There is no reason why we should allow the money of criminals, obtained from illegal sources, to be turned into seemingly legitimate income after numerous transactions.

Earlier on, I said that Hong Kong is only required to meet the minimum requirements, but we are also bound to keep abreast of the times, and that is, whenever there are changes in the minimum requirements imposed by the international community, Hong Kong should also change accordingly in a timely manner. We are scheduled to undergo a mutual evaluation in 2018-2019, and according to the official website of FATF, an assessment will be conducted in Hong Kong between October and November this year and a final discussion will be conducted in June next year to evaluate Hong Kong's compliance in terms of technical compliance and effectiveness, that is, whether or not Hong Kong has implemented effective measures to protect against money laundering.

Why does Hong Kong play such an important role in anti-money laundering? The reasons are that our economy is very open and the flow of capital is not subject to very stringent control. Unlike the Mainland, the flow of capital in Hong Kong is pretty free, we must therefore impose regulation by introducing strict laws. If we attain a very low score or even fail in the mutual
evaluation, adverse consequences may be resulted, which include downgrading our credit adverse ratings or placing Hong Kong on enhanced follow-up process. If Hong Kong is placed on the enhanced follow-up process, our status as a financial centre and our reputation of having a clean business environment will be adversely affected.

The Hong Kong Institute of Certified Public Accountants ("the Institute") has all along shown serious concern about the Bill from its drafting to consultation. It also supports the Bill and has done a lot of work in this regard. Therefore, the support of members of the Institute for the Bill is not easy to come by. The Institute has raised a technical issue to which I hope the authorities will earnestly respond. The Bill proposes to govern certified public accountants in Hong Kong as they are regulated by the Institute, but are certified public accountants with overseas qualification who carried out the transactions as specified in section 5A(3)(a) to (f) also governed by the Bill? The Institute does not have the power to supervise certified public accountants with overseas qualification unless they become trust or company service providers. So, is there any regulatory loophole? This is worthy of thorough examination.

I noted that Mr James TO has moved an amendment to revise the time limit for prosecution, and just now I heard that Mr WONG Ting-kwong, Chairman of the bills committee had reservation about Mr James TO's amendment and raised objection. I must nonetheless point out that the Bill does not regulate money laundering activities, which are in fact regulated by other laws. The Bill only regulates procedures pertaining to certain specific professional industries and service providers, and that is, CDD and record-keeping, which are all procedural matters. Furthermore, I have different views about the time limit for prosecution and will bring up for discussion later on.

President, all in all, over 40 000 accountants in Hong Kong I represent and myself support the resumption of Second Reading of the Bill. President, I so submit.

MR HOLDEN CHOW: President, to counter the looming terrorist activities and also the money laundering activities, I would support the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill") today in order to comply with the international requirements, especially we are minded to avoid being blacklisted by the international
community. But, of course, when deliberating the Bill, we stressed that we must strike a balance between tackling money laundering and avoiding the potential harm to our business environment, and if any measure or new legislation goes too far, namely being more draconian than requested, the compliance cost would be raised, and would eventually affect the competitiveness of our local companies.

President, we welcome that the Government, having taken on board our advice, allows estate agents and also trust and company service providers to instruct a third party with expertise to carry out due diligence on their clients. This would save their risk of failing to properly handle the due diligence, and hence, violate the law.

To conclude, in order to herald and reinforce our international financial centre status, we will support the Bill today. And, of course, we must also raise the concern that after the Bill or the legislation is enacted, any measure to be taken, I am sure, must not be taken on a very draconian basis because, as I said earlier on, if we really go too far, it will cause harm to our business environment.

MR HOLDEN CHOW (in Cantonese): President, I want to speak a little more on the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill"). During the deliberation of the Bills Committee, Mr WONG Ting-kwong, the Chairman and other members of the Bills Committee, including me, had reiterated that the trust and estate agent would need to hire third party professionals to carry out customer due diligence ("CDD") measure. In fact, as I have said in my earlier English speech, only in so doing can they avoid the risk of failing to properly and effectively comply with the CDD requirements. They fear that a failure to comply with the relevant requirements may get them caught by the law. I am very glad that the Government did hear our voices during the deliberation, especially on this point, and has taken on board our views. I think this is what we all consider the right thing to do.

President, I just want to say one more thing. This Bill mainly seeks to comply with the international requirements so that Hong Kong will not to be blacklisted, just as I said in my earlier English speech. It is surely our wish to reinforce Hong Kong's position as an international financial centre, but we also hope that after the legislation comes into force, the Administration will not overdo or be overly stringent as this may being adverse effects to our business environment.
As I am aware, Mr James TO will propose an amendment later. I may speak again after listening to the details of the amendment.

Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. The debate will come to a close after the Secretary has replied.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, first of all, I would like to thank Chairman Mr WONG Ting-kwong and other members of the Bills Committee, the Legislative Council Secretariat and the Legal Advisor for their untiring efforts, which have facilitated the deliberation on the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill"). I would also hereby thank the deputations and individuals who have expressed their views to the Bills Committee, and the Members who have just expressed their views in their speeches.

After the Bill was introduced into the Legislative Council in June last year, the Bills Committee had held a total of eight meetings. After we had considered the views received during the deliberation of the Bill and examined the provisions of the Bills, we submitted some amendments to spell out the meaning and policy objectives of the relevant provisions more clearly and make some draft or technical amendments. I will move the amendments in the committee of the whole Council later.

The main purposes of the Bill are to lay down the statutory customer due diligence ("CDD") and record-keeping requirements applicable to designated non-financial businesses and professions ("DNFBPs") who engage in specified transactions, and to introduce a licensing regime for trust or company service providers ("TCSPs"), which will enhance the anti-money laundering and
counter-terrorist financing ("AML/CTF") regulatory regime of Hong Kong and fulfil Hong Kong's international obligations under the Financial Action Task Force ("FATF"). I have just explained the background of FATF during the resumption of the Second Reading of the Companies (Amendment) Bill 2017. I am not going to repeat it here.

Hong Kong's AML/CTF regime has failed to meet FATF recommendations in some areas, such as the current absence of statutory CDD and record-keeping requirements for DNFBPs who engage in specified transactions. Taking into consideration FATF recommendations on CDD and record-keeping requirements, the definition of DNFBPs and the business nature of those DNFBPs in Hong Kong, the Government has proposed to amend the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance ("AMLO") to extend its application from financial institutions to legal professionals, accounting professionals, estate agents, and TCSPs. When engaging in specified transactions, members of these four sectors must observe the CDD and record-keeping requirements under AMLO.

As legal professionals, accounting professionals and estate agents are currently subject to professional self-regulation by their respective regulatory bodies, we have proposed to use the existing regulatory regimes applicable to the three sectors under the Legal Practitioners Ordinance, the Professional Accountants Ordinance and the Estate Agents Ordinance respectively to enforce the statutory CDD and record-keeping requirements under AMLO. The Law Society of Hong Kong ("The Law Society"), the Hong Kong Institute of Certified Public Accountants and the Estate Agents Authority will be entrusted with statutory supervisory oversight in order to ensure compliance with the AMLO requirements by the relevant professions. Non-compliance will be handled in accordance with the existing statutory investigation, disciplinary and appeal mechanisms governing professional misconduct.

With regard to the supervision of TCSPs, there is currently no authority with statutory power to regulate or oversee the business of TCSPs in Hong Kong. We have proposed to introduce a licensing regime under the Companies Registry to enforce the proposed statutory CDD and record-keeping requirements applicable to TCSPs. Anyone who wishes to engage in trust or company service business in Hong Kong must apply for a licence from the Registrar of Companies ("the Registrar") and satisfy a "fit-and-proper" test before they can provide trust or company services as a business in Hong Kong, unless otherwise exempted.
On enforcement, the Registrar will be empowered to investigate any non-compliance in relation to TCSP licensees and impose disciplinary sanctions.

We do not propose to impose criminal sanctions for non-compliances with CDD and record-keeping requirements under AMLO in view of the lesser risks concerning these DNFBP sectors when compared with financial institutions.

Some Members have just indicated that in the early years, The Law Society has issued the Practice Direction P ("PDP") setting out the requirements relating to anti-money laundering for all law firms, solicitors and foreign lawyers practising in Hong Kong. They have enquired why the Government had to subject legal professionals to the regulation under AMLO. As I have explained earlier, based on FATF recommendations, the Government has proposed to implement the statutory CDD and record-keeping requirements on DNFBPs (including legal professionals). FATF has clearly indicated that the principle relating to those statutory CDD and record-keeping requirements must be set out in law, while specific requirements can be set out in enforceable means.

In FATF parlance, "enforceable means" refers to regulations, guidelines, instructions or other documents or mechanisms that set out enforceable anti-money laundering and counter-terrorist financing requirements in mandatory language with sanctions for non-compliance, and which are issued or approved by a competent authority. Except as otherwise expressly provided in AMLO, based on the definition by FATF, The Law Society is currently not to be regarded as a competent authority.

As just mentioned by a number of Members, we understand that The Law Society has issued PDP setting out the CDD and record-keeping requirements applicable to all law firms, solicitors and foreign lawyers practising in Hong Kong. However, we have also noticed that the biggest difference between PDP and Schedule 2 to AMLO is that PDP does not have the force of law. Paragraph 11 of PDP specifies that "these guidelines do not have the force of law and should not be interpreted as such". The CDD and record-keeping requirements under PDP do not amount to statutory requirements.

Therefore, even if amendments were to be made by The Law Society to PDP to align it with the requirements stipulated in Schedule 2 to AMLO or the requirements promulgated by FATF, PDP's status will not be changed. In other words, PDP will still not have the force of law. We have also referred to FATF’s
recent mutual evaluation report of other members. Overseas experience has shown that the absence from the statute of the core FATF principles that DNFBPs should observe CDD and record-keeping requirements when they engage in specified transactions will very likely result in a member state failing its FATF mutual assessments.

As the Government has repeatedly stressed at previous meetings of the Bills Committee, we fully respect the existing professional self-regulatory regimes applicable to DNFBPs. Hence, we have suggested keeping the existing regulatory regimes applicable to DNFBPs to enforce the statutory CDD and record-keeping requirements. This is also our objective clearly set out in the Bill.

As I have mentioned before, in the case of legal professionals, The Law Society will be empowered under the Bill to act as a competent authority to take on statutory oversight for ensuring their compliance with AMLO requirements. Non-compliance with the requirements will be handled in accordance with the prevailing investigation and disciplinary mechanism under the Legal Practitioners Ordinance (Cap. 159) governing professional misconduct.

In response to the views expressed by Mr Dennis KWOK just now, I can hereby confirm that we have introduced enabling provisions in the Bill to the effect that The Law Society, as the sole authority for enforcing AMLO requirements for legal professionals, would have the discretion to promulgate guidelines as they consider appropriate in relation to the operation of requirements set out in Schedule 2 to AMLO. In addition, we have also proposed consequential amendments to Legal Practitioners Ordinance to clarify that the Council of The Law Society has the discretion in determining whether the conduct of a legal professional involves an alleged breach of AML/CTF requirements and should be inquired into or investigated, before the matter is submitted to the Tribunal Convenor for the purpose of inquiring into or investigating the conduct. In particular, the Bill has stressed that the Council of The Law Society has to take PDP into account when making the decision, and The Law Society has the sole discretion to determine the content of PDP. In light of the discussion with the Bills Committee and The Law Society, the Government will propose two amendments later to refine the provisions, with a view to reflecting the Government's policy intent more clearly.
President, as I have stressed during the resumption of the Second Reading of the Companies (Amendment) Bill 2017, FATF is one of the very few international organizations which Hong Kong can join as an independent member. As global efforts are underway to fight money laundering and terrorism, Hong Kong, as a responsible and important member of the international community, must earnestly implement FATF requirements. Hong Kong will undergo the mutual evaluation of FATF members later this year. The amendments are extremely important for us to fulfil the obligations set out by FATF. If we do not take action to enhance our regulatory regime, our rating will definitely be negatively affected. Furthermore, Hong Kong's reputation as an international financial centre and a safe and clean business location will also be tarnished. In view of this, it is not advisable to maintain the status quo.

Having gone through extensive consultation, the proposals set out in the Bill have been supported by the Bills Committee. The Bill, if passed, will come into operation on 1 March 2018. During the initial implementation of the legislative proposals, we hope that various regulatory bodies will provide all the necessary assistance to DNFBPs, such as publishing appropriate guidelines for implementing AMLO to facilitate their sectors' migration to the new regime. We believe that all regulatory bodies will handle cases of non-compliance in a reasonable and fair manner. The Companies Registry will hold briefings for the sectors on the TCSP licensing regime soon, and it will promulgate guidelines on licensing and AML/CTF compliance. The Government will also continue to raise the AML/CTF awareness of other sectors by holding capacity-building seminars in future.

With these remarks, President, I implore fellow Members to support the Bill and the amendments proposed by the Government later.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)
PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

Mr James TO rose to claim a division.

PRESIDENT (in Cantonese): Mr James TO has claimed a division. The division bell will ring for five minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr James TO, Mr Abraham SHEK, Prof Joseph LEE, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Andrew WAN, Dr Junius HO, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Dr Pierre CHAN, Mr CHAN Chun-ying, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr HUI Chi-fung, Mr LUK Chung-hung, Mr LAU Kwok-fan, Dr CHENG Chung-tai, Mr KWONG Chun-yu and Mr Jeremy TAM voted for the motion.

Mr Dennis KWOK abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.
THE PRESIDENT announced that there were 51 Members present, 49 were in favour of the motion and 1 abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.


(Some Members spoke loudly in their seats)

PRESIDENT (in Cantonese): Will Members please keep quiet.

Council became committee of the whole Council.

Consideration by Committee of the Whole Council


Members may refer to the Appendix to the Script for the debate and voting arrangements for the Bill.

ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (FINANCIAL INSTITUTIONS) (AMENDMENT) BILL 2017

CHAIRMAN (in Cantonese): I will first deal with the clauses with no amendment. I now propose the question to you and that is: That the following clauses stand part of the Bill.

CLERK (in Cantonese): Clauses 1 to 6, 10 to 17, 19 to 25, 27 to 33 and 35 to 49.
CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses read out by the Clerk stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(Members raised their hands)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Clauses 7, 8, 9, 18, 26 and 34.

CHAIRMAN (in Cantonese): The Secretary for Financial Services and the Treasury has given notice to move his amendments to amend clauses 7, 8, 9, 18, 26 and 34, as set out in the Appendix to the Script.

Mr James TO has also given notice to move his amendment to amend clause 18, as set out in the Appendix to the Script.

CHAIRMAN (in Cantonese): Members may now proceed to a joint debate on the original clauses and the amendments.

I will first call upon the Secretary to speak and move his amendments. Then I will call upon Mr James TO to speak, but he may not move his amendment at this stage.
CHAIRMAN (in Cantonese): Upon the conclusion of the debate, the committee will first vote on the Secretary's amendments.

Irrespective of whether the Secretary's amendments are passed or not, Mr James TO may move his amendment.

CHAIRMAN (in Cantonese): Secretary for Financial Services and the Treasury, you may move your amendments.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I move the amendments to amend the clauses of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill") read out just now. The contents of the amendment have been set out in the paper circularized to Members. These amendments to the Bill were proposed after considering the views collected in the course of the deliberation and examining the provisions. They covered several areas, mainly to clearly state the policy objectives of the relevant provisions and to make some drafting or technical amendments. I will briefly explain the contents of the amendments.

The proposed new section 5A(3), (4) and (5) requires a designated non-financial businesses and professions ("DNFBP"), "in Hong Kong", to prepare for, carry out or be involved in a specified transaction in order for an anti-money laundering and counter-terrorist financing requirement set out in Schedule 2 to apply to that DNFBP or transaction. Having regard to views raised by members at the Bills Committee meeting, to avoid doubt, clause 7 is to clarify beyond doubt that it is immaterial whether the subject matter of a transaction referred to in section 5A(3), (4) or (5) is in Hong Kong or elsewhere.

The amendment to clause 9(10) seeks to amend a typo.

The proposed new section 53ZK(1)(d) of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance sets out persons to whom information relating to trust or company service provider ("TCSP") licensees may be disclosed to by the Registrar of Companies ("the Registrar"). Taking on board the views of the Bills Committee, the amendment to clause 18 seeks to include the Estate Agents Authority ("EAA") among such persons
because a TCSP and an estate agent may both be implicated in a real estate transaction involving a trust or company service and the information gathered by the Registrar about the TCSP may therefore be relevant to EAA's investigations into the transaction under the Ordinance.

Moreover, considering the views expressed by the Bills Committee, we also proposed to amend the relevant provisions in Schedule 2. The amendment to clause 26 seeks to allow DNFBP to rely on intermediaries to conduct customer due diligence measures, and to amend the record-keeping requirement from six years to at least five years.

Furthermore, in the light of the discussions with the Bills Committee and The Law Society of Hong Kong ("The Law Society"), we have amended the provisions in relation to a legal professional. Clause 8 seeks to state that although enabling provisions have been built in the law to allow The Law Society to issue industry-specific guidelines in relation to the operation of the anti-money laundering and counter-terrorist financing, this does not affect the sole discretion of The Law Society to determine the content of Practice Direction P. The amendment to clause 34 is to clarify the consequential amendments to the Legal Practitioners Ordinance that the Council of The Law Society has the discretion in determining whether a conduct involves an alleged breach of anti-money laundering and counter-terrorist financing requirements, and should be inquired into or investigated, taking into account Practice Direction P, before the conduct can be referred to the Solicitors Disciplinary Tribunal for follow-up.

Chairman, the Government has, in the course of preparing the amendments, fully considered the views expressed by the Bills Committee, the industry and the Legal Adviser of the Legislative Council. The Bills Committee has no objection to all the amendments.

With these remarks, Chairman, I implore Members to support the amendments proposed by the Government.

Proposed amendments

Clause 7 (see Annex I)

Clause 8 (see Annex I)
MR JAMES TO (in Cantonese): Chairman, first of all, I would like to express my support for all of the amendments moved by the Government to clauses 7, 8, 9, 18, 26 and 34. I have also proposed an amendment to clause 18, but my amendment is related to another issue. I support the above amendments of the Government.

Let me talk about my views on some clauses. I have expressed concern over a few particular points at the meeting of the Bills Committee. One of the amendments moved by the Government seeks to revise the record-keeping requirement from six years to at least five years. In fact, there is only a one-year difference between five and six years. However, I have expressed concern at the Bills Committee meeting because this is a matter of principle. While the international organization concerned has recommended a record-keeping period of at least five years, the Government has, without rhyme or reason, consulted stakeholders on keeping the records for six years. As explained by the Government, the requirement to maintain records for six years has also been stipulated in some ordinances. However, in my view, those ordinances may not be totally relevant to the requirement of the international organization concerned. Nevertheless, according to the Government, considering the six-year requirement in other ordinances, it has proposed maintaining records for six years in the consultation. As no objection to the six-year option has been received, the Government has initially adopted the six-year requirement.

However, the principle I have been upholding is, if it is the requirement of the international organization concerned to keep relevant records for at least five years, then the Government should have consulted the public on keeping the records for five years. Frankly speaking, I believe that the sector will neither oppose a record-keeping period of five years nor insist on maintaining records for six years. Therefore, what I can only say is, these types of requests from international organizations will keep coming in the future. When making
amendments to legislation in the future, I hope that the Government will use the most basic requirement as the benchmark. Of course, I call on the Government to make it clear if it does not agree with my view. If the Government does not make it clear this time, it should do so in the future in order to avoid misunderstanding. During the deliberation of bills, I have to raise questions to clarify all the details from this perspective. Otherwise, if any provision has violated the above principle in the end, I will consider the Bill to be unsatisfactory.

Another concern of mine is related to the conduct of customer due diligence ("CDD") by lawyers. Hong Kong is an international financial centre, and coupled with the fact that the Government hopes to develop Hong Kong into an international arbitration centre to attract clients from all over the world to do business here, Hong Kong's professionals (including lawyers) have to provide services to many international clients. With the introduction of a relatively stringent CDD requirements this time, Hong Kong lawyers will be required to conduct CDD on international clients. If a client is based in Italy, it is necessary to go all the way to Italy to conduct CDD. Even when a foreign client is only buying a property in Hong Kong, the Hong Kong lawyer concerned still has to carry out the "know your client" process. The problem is, while Hong Kong lawyers are generally more familiar with the local conditions, they may not be familiar with the conditions in other places like Mauritius. Furthermore, given the numerous jurisdictions worldwide, even highly international law firms may not be familiar with the conditions in all jurisdictions.

In this regard, the initial bone of contention is: Can Hong Kong lawyers appoint overseas lawyers (for example, a Mauritian lawyer) to carry out CDD measures on their behalf? The Government has initially dismissed the idea as not feasible. As it explained, even if Hong Kong lawyers were allowed to rely on overseas lawyers to conduct CDD measures on their behalf, the ultimate liability would still rest with Hong Kong lawyers. In this way, problems will arise. Whether Hong Kong lawyers conduct CDD measures on clients by flying to the place concerned, using video-conferencing, or commissioning local intermediaries to do so on their behalf, in the end ... In fact, as long as the overseas lawyers whom Hong Kong lawyers are planning to commission are subject to their local regulations, the Hong Kong lawyers should have no reason to doubt that those people have been thieves or have been reinstated as lawyers after being suspended or imprisoned for money laundering. In other words, those people should be normal agents who have met the requirements.
Kong lawyers should supposedly commission them in the belief that such appointments will be safe and reliable.

This kind of international operation is necessary for all societies. While banks can commission overseas intermediaries, it will be very strange if lawyers cannot do so. In my view, this will be unfair to lawyers. For example, a Mauritian client wants to open an account with a Hong Kong bank here. The bank can commission a Mauritian lawyer to conduct CDD measures on its behalf as long as the appointment is reasonable. In contrast, a lawyer cannot make similar appointment. How can that happen? Working in a complex environment in an international society, are Hong Kong lawyers supposed to be superhuman? This is unlikely the case.

We have only managed to bring the Government around to this view after many meetings. In fact, I think that the Bills Committee could have completed its deliberation earlier. However, the Government had invariably opposed our suggestions, no matter how reasonable our arguments were. Lastly, the Government realized that the Bill might not be passed if it continued its opposition. In addition, the deadline was drawing near. Therefore, it has abruptly indicated its support of the suggestions.

Chairman, I hope that the Government ... putting aside other Policy Bureaux, the Financial Services and the Treasury Bureau will have to introduce many similar bills into the Legislative Council for scrutiny in future. Relevant government officials should make sensible considerations. As long as Members' suggestions are reasonable, the Government should work more closely with Members. Unless the Government thinks that certain suggestions made by Members are a matter of principle affecting life and death, and definitely do not comply with the requirements of the international organizations concerned, then we will remain silent to avoid a lose-lose outcome. If the Government affirms that my suggestion is not feasible and insists on rejecting it, I will respect its decision. However, if the matters proposed by a Member are of relatively peripheral importance and are not unfeasible, the Government should discuss and interact with Members in order to come up with a decision as soon as possible. A favourable atmosphere created by the Government will naturally facilitate the deliberation of the Bill.

I do not know whether the Carrie LAM administration and the LEUNG Chun-ying administration are ... Frankly speaking, they are both formed by same
group of Administrative Officers. While the Secretary for Financial Services and the Treasury has certainly been replaced, I do not see a big difference between Secretary LAU and Secretary CHAN. What I can only say is, I do not know if the general political atmosphere is the cause, but if we put politics aside … Frankly speaking, this is not even a political issue. After all, it is Members' duty to scrutinize bills properly. In this case, since I am familiar with the subject matter, I have raised relatively more questions during the deliberation of the Bill, and that is the reason why the Bills Committee has to hold one or two more meetings. I hope that the authorities will be more patient. I have also noticed that honourable colleagues tend to raise more questions on specific issues with which they are more familiar. Take Mr SHIU Ka-chun as an example. He is familiar with matters relating to the practice and administration of social workers. Therefore, he has raised more questions on these matters. The authorities should respect the expertise, experience and matters of concern of all Members. It does not matter if Members raise more questions in the Chamber. Were we discussing a political matter of life and death, it would be understandable if the Government had to go the whole hog. However, as we are not, the Government should make adjustments accordingly.

Chairman, I am now going to talk about my amendment to clause 18. Simply put, my amendment concerns the time limit for prosecution. I have just heard what Mr WONG Ting-kwong said—he is present now. I particularly want to say a few words to him. According to him, he found the amendment proposed by me very odd because the Government had already cited three to four examples to substantiate the provision that the time limit for prosecution should run from the date of discovery of the offence.

Given the hectic schedule back then, my assistant was unable to finish the relevant research in half a day. I wish to tell Mr WONG Ting-kwong that I had conducted a research on the following question by searching the legislation: whether there are more cases of prescribing the time limit for prosecution within a certain period of time (say 12 months) after the discovery of the offence or after the commission of the offence? I can tell fellow Members that the formulation of "after the commission of the offence" has been used far more often than the formulation of "after the discovery of the offence". In other words, it has been the norm in casebooks to adopt the formulation of "after the commission of the offence" for prescribing the time limit for prosecution. Mr WONG Ting-kwong said that he felt very strange because the Government had cited three examples. Chairman, I have 30 examples put together by my assistant on hand. I am not
going to read out all of them. However, I consider it my duty to make reference
to some ordinances relating to similar serious offences. They include the
Prevention of Bribery Ordinance, the Securities and Futures Ordinance, the
Banking Ordinance, the Independent Commission Against Corruption Ordinance
and the Merchant Shipping (Safety) Ordinance. I have just cited a few examples
but not many others. I am not going to mention the trivial ones.

Chairman, anti-money laundering should not be the overriding concern.
We must also consider the nature of the offence concerned. If the nature of an
offence is related to terrorist financing—I believe we will deliberate on the
relevant bill after a few meetings—we should then assume that it is a substantive
and imminent offence. However, as far as the Bill is concerned, all the
requirements set out are regulatory in nature, which are related to such matters as
the completion of forms and deadline for submission. For example, the Bill has
stipulated that it is necessary to notify the Registrar of Companies ("the
Registrar") of the intended date of cessation, and it has set out requirements for
the application and renewal of licence, including notifying the Registrar of any
changes in information.

The problem is, when will the Government discover the offence? In
theory, the Government may not discover the offence until after 10 years.
Assuming that the Government really discovers the offence after 10 years, thanks
to the excellent documentation system of the Government; or, in an even more
extreme case, it is not until after 20 years that the Government discovers that
someone or a secretarial service provider (namely the trust or company service
providers as referred to in the Bill) did not notify the Registrar of an item or a
change in information relating to an item 20 years ago, the Government can still
institute prosecution within 12 months after discovery of the offence. Even the
Inland Revenue Department has requested taxpayers to keep the relevant records
for seven years only. Filing tax returns is more important than everything else,
whereas tax investigation can be something very serious. However, the
Government can still institute prosecution against the aforesaid person or
company 20 years later. Some people may suggest that the person or company
may plead on the ground of unfair prosecution before the Court. Let us not
forget that the offence in question is very frivolous, which may only incur a fine.
If considerable efforts are spent on employing a counsel to plead on the ground of
unfair prosecution and seek a stay of execution of the case, the legal costs
involved may far exceed the fine. Some people may consider it unnecessary to
be bothered given that only a fine will be imposed. They are mistaken because
the persons involved in these cases may not only be fined, but also be sentenced to imprisonment.

In this case, unscrupulous people may be taking advantage of unsuspecting people. For now I will put aside my suspicion that the Government may have taken advantage of unsuspecting people. As far as the regulated secretarial or trust companies are concerned, there is a possibility of them being prosecuted by the Government 20 years after the commission of an offence. However, the company concerned might have already destroyed all relevant records. As times have changed, the original office of the company might have been destroyed in a fire hazard. A former long-time employee of the company might have already retired a few years ago after working there for decades. What was the reason for the company to fail to notify the Registrar of some information 20 years ago? Why was there a change in the information? What was the reason for a certain word to be used for a particular document? Buddy, the company must have the relevant records or witnesses in order to enter a plea. In contrast, the Government has considerable resources and sophisticated computer systems which can store as much records as necessary (if such records are being maintained). However, when the Government institutes prosecution against the person-in-charge of the company, he might have to rely on his memory, rummage through all storage boxes or even go to a warehouse in Shenzhen to ferret out the relevant records. He might end up finding a relevant fax document. Yet the information on it has become blurred—his employee had not made a photocopy of the document which might not have become blurred. In the end, he has failed to enter a plea or produce any evidence.

In fact, can we strike a balance between the two formulations, namely "after the commission of the offence" and "after the discovery of the offence"? As I said just now, a majority of ordinances have prescribed the time limit for prosecution as being a period of time after the commission of the offence. However, when I was doing my research, I found a fairly interesting formulation—I have learned quite a lot during the research. This formulation has combined the two elements mentioned above. For example, section 82 of the Merchant Shipping (Local Vessels) Ordinance has provided that "proceedings in respect of an offence under this Ordinance may be brought at any time within 2 years next after the commission of the offence or within 6 months after the first discovery thereof by the prosecutor, whichever period expires first". In other words, if the Government has discovered the offence concerned, it shall institute
prosecution within six months. However, in any event, no prosecution can be instituted after two years. This is intended to strike a balance between the right of defendants and the administration of justice.

Therefore, Chairman, this formulation has also been adopted in my amendment. First, in my view, there are indeed examples of the adoption of this formulation, which have even outnumbered those cited by the Government. Second, in relation to offences relating to filing or record-keeping, I consider that there should be a cap on the time limit for prosecution. In my opinion, in order to strike a proper balance, the Government must institute relevant prosecution within three years after the commission of the offence or within one year after the discovery thereof by the Registrar (whichever period expires first).

MR HOLDEN CHOW (in Cantonese): Chairman, in this session, I will mainly speak on the amendment mentioned by Mr James TO just now. His proposed amendment is related to the introduction of a time limit for prosecution. Let me give an explanation as not all Members or people watching television broadcast know the details. The Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill") originally stipulates that proceedings may be instituted within 12 months after the offence is discovered by, or comes to the notice of, the Registrar of Companies ("the Registrar"). Mr James TO's amendment proposes that proceedings may be "brought within 3 years after the commission of the offence or within 1 year after the offence is discovered by, or comes to the notice of, the Registrar, whichever period expires first." Simply put, the time limit within which proceedings may be instituted is three years. Having listened to his speech attentively, I wonder whether the persons concerned have to do more work and face more troubles when a prosecution is instituted against him.

Please allow me to raise an opinion. I will merely give an example. Mr TO may correct me if I get him wrong. As regards the customer due diligence ("CDD") and record-keeping requirements, the Bill proposes to provide for the responsibility to maintain the records for six years. Mr TO said that we should not go overboard given that the Financial Action Task Force only recommended that the records be maintained for five years. For this reason, I will talk about maintaining the record for five years. Mr TO said just now that he was worried that the persons concerned might need to rummage through all storage boxes to ferret out the relevant records, or they might have no memory of
the records. However, I want to point out, purely for discussion sake, since CDD records must be maintained for five years, a law enforcement agency should, in theory, be able to track the records within a five-year period if it has any enquiries. I understand Mr James TO's line of thinking for setting the time limit for prosecution at three years, but will five years be more appropriate? Since the records must be maintained for five years, we should set the time limit at five years if we want to avoid the situation where the persons concerned have completely lost their memory. This is merely my personal opinion. We may listen to each other and exchange our views.

In addition, a law enforcement agency certainly needs to consider the deterrent effect of the law when instituting prosecution against irregularities. As we all know, the Bill aims to safeguard the reputation of Hong Kong and its status as an international financial centre, and prevent Hong Kong from degenerating into a place for money laundering, or being taken advantage of by terrorists to raise funds. For this reason, I am concerned whether the passage of Mr TO's amendment will be interpreted as undermining the deterrent effect of the law. I have listened attentively to the speech of Mr TO just now. He cited several examples to explain that the same approach was also adopted in other jurisdictions. However, since the Bill aims to combat money laundering and terrorist financing, I am afraid that Mr TO's proposed amendment will give the international community an impression that we do not attach enough importance to this issue and fail to make adequate efforts.

(THE CHAIRMAN'S DEPUTY, MS STARRY LEE, took the Chair)

As such, I have reservations about the three-year time limit for prosecution, and I have just put forward the main reasons. However, I certainly hope to listen to the views of other members, including WONG Ting-kwong, Chairman of the Bills Committee. I believe he will raise some views in a moment. I hope to listen to Members' views, but as I have explained, I am afraid the three-year time limit for prosecution will be interpreted by the international community as our failure to attach enough importance to the anti-money laundering arrangements. I so submit, and I will see whether I will speak again to provide more information. Thank you.
MR CHAN CHI-CHUEN (in Cantonese): Deputy Chairman, I speak in support of the amendment proposed by Mr James TO. In fact, we are now discussing the time limit for prosecution. I am not a member of the Bills Committee on the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill"), but I think as far as this issue is concerned, even one who is not a member of the Bills Committee can raise his views after listening to Members' arguments.

In fact, Mr James TO proposes to amend clause 18 of the Bill by adding "3 years after the commission of the offence" to the section concerned. The current point of contention is whether it is reasonable and advisable to stipulate that proceedings may be instituted within a certain period after the discovery of the offence or within a certain period after the commission of the offence. Just now Mr Holden CHOW queried why the time limit for prosecution was set at three years and he suggested a five-year time limit. I then asked James whether he has any specific reasons for proposing a three-year time limit for prosecution. He probably has no specific reasons, but if Mr Holden CHOW proposed a five-year time limit for prosecution, he actually agreed that Members should consider supporting the proposal that proceedings be instituted within a certain period after the commission of the offence. In other words, he is in support of the "commission" camp rather than the "discovery" camp.

Mr James TO proposed an amendment for the reason that as far as the time limit for prosecution is concerned, the Bill only stipulates that proceedings may be "instituted within 12 months after the offence is discovered by, or comes to the notice of, the Registrar". The formulation of this provision has been criticized for being ambiguous about the time limit for prosecution, for the organization being prosecuted or regulated will not know when the offence is discovered by, or comes to the notice of, the Registrar. In other words, the Registrar may in theory discover the offence after 5, 10 or 20 years and then proceed to institute prosecution.

The Government might have told Mr James TO that it supported the proposal that proceedings might be instituted within a certain period after the commission of the offence, but the time limit should be changed from three years, being too short, to five years. The Government, however, did not do so. As I have observed in other Bills Committees, the Government liked to refer to other ordinances in its replies, saying that the same approach has been effectively applied in other ordinances. What the Government implied was that this
provision should not be amended; otherwise other ordinances must also be amended. According to Mr James TO, technical problems will arise with regard to the formulation that proceedings may be instituted within a certain period after the discovery of the offence, and it will be better to adopt the formulation that proceedings may be instituted within a certain period after the commission of the offence. As such, should other ordinances be likewise amended? It is nice that Mr James TO has put so much thought to his amendment and has cited so many examples, but the Government could have cited more examples. Deputy Chairman, we should not judge a piece of legislation by the number of examples cited. We usually have no intention to get entangled with the Government, so when the Government has listed several ordinances, saying that the approach has been effectively applied, we will not proceed as the Government seems to have justifications.

That said, Mr James TO has given many examples to support his proposed amendment. We understand the difficulty of getting this amendment passed under the split voting system. However, I would like to take this opportunity to tell the Government, it should not casually put forward certain reasons to oppose this amendment; it should not think that it has responded by making some sound or providing some papers. The Government should not simply give the reason that the same approach has been adopted in other ordinances. Pro-democracy Members should bear in mind that in future, we should not easily accept the Government's argument that other laws have adopted a similar approach. We have no intention to vie with the Government, neither do we want to engage in endless debates. Since we are not competing for the number of examples cited, we should examine the nature of each piece of legislation before deciding whether to adopt the "commission" proposal or the "discovery" proposal.

A proper balance must be struck between whether the law can effectively combat crimes from the perspective of the Government, and whether the law will impose additional or unnecessary burden, from the perspective of those being regulated. We always insist that a proper balance should be struck when enacting legislation. That said, has the Government debated Mr James TO's justification for putting forward the "commission" proposal? One reason put forward by Mr James TO is the adverse impacts on the company if the Registrar discovers the offence 10 or 20 years later and then institute prosecution. As a long time has passed, the evidence and witnesses involved, as well as the company executives to be prosecuted might not be traceable, the persons involved in the cases might have retired or passed away, and persons under investigation
might have a very faint memory. For this reason, we may have to set a time limit in each and every law, such as setting a seven-year time limit in the legislation related to the Inland Revenue Department. It is indeed difficult for one to explain things that happened 10 or 20 years ago. A case in point is Secretary for Justice Teresa CHENG, who is very busy. Is an indefinite time limit for prosecution fair?

More importantly, while the Financial Action Task Force only asks us to verify customers and maintain the records for at least five years, the authorities propose to unify the time limit for regulating non-financial institutions and the existing time limit for regulating financial institutions at six years. This is again an expedient measure adopted by the Government. If the authorities insist on using the wording "is discovered by, or comes to the notice of, the Registrar" rather than the wording "after the commission of the offence" as proposed by Mr James TO, the prosecution will very likely exceed the six-year time limit for maintaining the customer records. If the offence "is discovered by, or comes to the notice of" the Registrar in the 10th year, the relevant customer records may very likely have been deleted, thus putting both sides in difficulty. In fact, the Government has implied that it will take no action six years after the commission of the offence, as institutions are not duty-bound to maintain the records for over six years.

I believe Mr James TO has proposed his amendment in the hope of setting a clearer time limit for prosecution. He does not seek to delete "within 12 months after the offence is discovered by, or comes to the notice of" as proposed by the authorities; he only adds "within 3 years after the commission of the offence" and "whichever period expires first" in the provision. Such words will make the provision clearer, and the company involved will not have to be on tenterhooks even some 10 years after the conclusion of a transaction. The management of the company may have changed several times over the 10 years or so, and it will be inconceivable if the new management is required to handle the mess left over by the former management.

At the same time, precedents have already been set for Mr James TO's proposal. Unless the authorities can put forward one or two ordinances in which the "commission" proposal is adopted, and explain that the "commission" proposal is more suitable for such ordinances while the "discovery" proposal is more suitable for the Bill, otherwise pro-establishment Members should not blindly support the Bill proposed by the Government, under which the time limit
is based on the time when the offence is discovered by, or comes to the notice of, the Registrar. Thank you, Deputy Chairman.

MR JAMES TO (in Cantonese): Deputy Chairman, I would like to give a simple reply. First, Mr Holden CHOW pointed out just now that even customer due diligence records will be maintained for five years. As a matter of fact, the offence as referred to in section 53ZO is not related to customer due diligence records, but rather related to carrying on a trust or company service business without a licence, providing wrong information to the Registrar when filing an application, and failing to report the suspension of business.

Second, Deputy Chairman, I think the enactment of legislation should not be biased in favour of the Government, or else it will be very dangerous. When I raised my queries at the Bills Committee, I had yet to conduct detailed research, but after conducting such research—surely I have to thank my assistants—I am convinced that many examples given by the Government ... I very much regret that I had not considered such an issue earlier, otherwise I would have made a similar proposal regarding the Bedspace Apartments Ordinance and the Private Columbaria Ordinance that the time limit for prosecution should be based on the commission of the offence. That would be an optimal approach. If one asks me whether the Government has any good logic for such a law drafting approach, I will say that the Law Drafting Division or the Legal Policy Division has not seriously examined this issue. My view on this issue is that the time limit for prosecution should normally be based on the commission of the offence, or, in very exceptional cases, on the discovery of the offence. The combination of the two formulas is actually justified in certain respects, but having examined the examples given by the Government, I think that the Government seems to adhere to no principles. This is certainly not a problem with the Policy Bureau concerned, but the decision of the Law Drafting Division on which formula should be applied in respect of a certain offence.

If the time limit for prosecution runs from the commission of the offence, people will clearly know the starting time. If it is based on the time when the offence comes to the notice of, or is discovered by, the law enforcement officer, the starting time will be ambiguous. Why? The reason is that there may be changes in law enforcement officers. If the case officer is on leave, the case may then be handled by his colleague. If Officer A suspects a certain case involves an offence, but Officer B who takes over thinks otherwise, should an
offence be regarded as having been discovered? If it is stated in the provision "suspected commission of the offence" … However, even in the case of a suspected offence, an officer may suspect the commission of an offence and propose taking follow-up actions, while his superior believes the case involves no offence. Under such circumstances, no suspicion will be raised by the law enforcement agency concerned, for the authoritative views of the superior prevail. As such, when is the starting time for counting the time limit for prosecution. There will be certain uncertainty.

If there is uncertainty with the law, and it happens that one enforcement officer believes the case involves no offence, while another officer thinks otherwise and considers that prosecution should be initiated, the person under regulation will be placed in a difficult position. First, he does not know anything about the internal working of the authorities. Second, he is unable to grasp the time limit for prosecution. How is he supposed to know when the offence comes to the notice of the enforcement officer? In that case, the time limit for prosecution will be indefinite, right? Unless in very exceptional cases, a message is leaked that the offence has come to the notice of the authority, or in case of a lawsuit, the defendant found from the documents provided by the authorities that the offence had already came to the notice of the enforcement officer at a certain time, the balance between the two sides will be upset.

Deputy Chairman, Mr CHOW raised a seemingly reasonable concern just now about whether a more lenient law will be accepted by international organizations. Severe offences that involve money laundering or unlicensed operation are indictable offences not to be heard by magistrates due to their severity, but will be handled separately. We are now talking about cases involving minor offences such as the omission of information, which are heard by magistrates.

In addition, when I read the Government's reply to the Bills Committee, I did not find any mention that replacing "discovery" by "commission" will fail to comply with the requirements of international organizations. I believe that the reply of the Government is fair, for it is basically impossible to indicate that my amendment will not comply with the requirements of international organizations. If that is the case, the Secretary should, in his reply, urge Members not to support my amendment for reasons that if my amendment is passed, Hong Kong will be adversely affected and will be sanctioned. The Secretary will not say so, for such a scenario simply will not occur. For this reason, I think this is purely a
problem with details, and Hong Kong can make a decision on its own without crossing the bottom line of international organizations.

In a nutshell, I believe my amendment will not be passed, for many Members simply do what the Government preaches, even if the latter fails to offer any logic. Since I have detected the problem, I hope to remind the Government, particularly the Law Drafting Division and the Legal Policy Division, that in presenting other legislation in the future involving a time limit for prosecution, the formula for computing the time limit should not be too random and confusing.

If the Government points out in response that a new trend has emerged, and all new legislation will adopt the formulation of "discovery" instead of the old drafting approach, I will then propose an amendment each time and argue with the Government each time. I even do not rule out adopting harsh measures to deal with seriously unfair legislation. That said, if the Government says that the formulation of "discovery" is not a new trend in law drafting and due consideration will be given to each law, the Government should provide sufficient justifications to explain the choice of words for each law. As I have explained, the "commission" proposal should normally be adopted, unless in very exceptional cases where the Government believes that offences can be easily concealed, the "discovery" proposal will then be adopted. However, from the information available, I fail to see any specific exceptional conditions. For this reason, I still insist on adopting the formulation of "commission", and I hope Members will support me.

DEPUTY CHAIRMAN (in Cantonese): Does any other Member wish to speak?

MR WONG TING-KWONG (in Cantonese): Deputy Chairman, I have been working with Mr James TO for over 10 years. I have been very impressed with his highly meticulous research on bills. However, he has been rather opinionated in some measure.

Mr Holden CHOW has just mentioned that the Financial Action Task Force has required that records be maintained for at least five years, and the Government has proposed an amendment to revise the record-keeping period from the current six years to five years. Despite the five-year record-keeping requirement, Mr TO has proposed a time limit for prosecution of three years. In
that case, the extra two years derived from subtracting three years from five years will not be of great significance. Am I right? Holden has also mentioned this issue. This is my first point.

Mr TO has cited a number of examples to illustrate that other ordinances have used the term "commission" but not "discovery" of an offence when prescribing the time limit for prosecution. Mr CHAN Chi-chuen has also talked about the emergence of the "commission" camp and the "discovery" camp. In this connection, I consider that the crux of the problem is the severity of the offences, rather than the number of instances of the use of the formulation concerned. Members of the legal profession should know that no time limit for prosecution has been prescribed for murder cases. Such a time limit is not applicable to murder cases or other serious offences.

Speaking of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill"), as its name suggests, the Bill seeks to combat money laundering and terrorist financing, the scale of which can vary significantly. At present, counter-terrorism has been a topic of discussion around the world. All people have been indignant about the frequent occurrence of terrorist attacks. If our unwillingness to make amendments leads to serious consequences … I believe that the Government must deal with any offences irrespective of the time of their discovery. We are not biased in favour of the Government here, but simply hope to protect people's life and property. Therefore, considering from this perspective, I consider it preferable to have the time limit for prosecution running from the date of "discovery" rather than "commission" of the offences. Furthermore, relevant records are required to be maintained for five years. The Government cannot simply institute prosecutions based on doubts because the prosecution is required to give evidence in court. For this reason, if the relevant records are maintained for only five years, what can the Government do if it wants to institute prosecutions after five years? The Government has the duty to maintain the records for five years only. For something that happened earlier than five years ago, say six years … it is necessary for the Government to find evidence for instituting prosecutions. However, how can the Government institute prosecutions when the evidence is no longer available?

For this reason, I do not consider it a big issue to discuss the need of a time limit. Instead, for the sake of the world as a whole … Given that terrorist financing is not only a Hong Kong issue, we must approach the issue from a
global perspective. On this basis, I consider Mr TO … after I had delivered my report in my capacity as Chairman of the Bills Committee just now, I put forward some personal views based on my understanding of the Bill. I therefore do not understand why Mr TO has proposed a three-year time limit for prosecution.

Deputy Chairman, I so submit.

DEPUTY CHAIRMAN (in Cantonese): Does any other Member wish to speak?

MR CHU HOI-DICK (in Cantonese): Deputy Chairman, when I was in office listening to Members' speeches, I was very happy because the debate between the "discovery" camp and the "commission" camp was very interesting. I thank Mr James TO for thoroughly scrutinizing the Bill in the Bills Committee for us over a long period and then propose this amendment which I regard to be rather important.

Deputy Chairman, I would only like to raise two points. First, some Members may think that Mr TO's amendment may reduce the law enforcement powers of the Government. If you are a pro-democracy Member, you would easily give others the impression that you are worrying that the Government may use the legislation for reprisal. The Government may say that it has discovered the offence 10 or 20 years after its commission and will then spend time in dealing with it. I certainly have worries about this situation. However, would it be better to adopt the "commission" approach proposed by Mr James TO even from the pro-establishment Members' point of view?

Frankly speaking, we can also consider the matter from the Government's point of view. The greater the power, the greater the responsibility. What do I mean by responsibility? One can imagine that if the time limit for prosecution runs from the date of discovery, or notice, of the offence, Deputy Chairman, many people may report the offences. I have recently received some cases in which people claimed, for example, that the records kept by the Companies Registry on the address or personal information of directors were false or wrong, and they asked me to follow up. It turns out that there is a time limit for regulating such acts under the Companies Ordinance. If the act was committed 10-plus years ago, no follow-up action could be taken. After I received the
If the Companies Registry considers that the time limit should run from the date of commission of the offence, it will not inquire into the matter and pay no attention to it.

However, if the time limit runs from the date of discovery, or notice, of the offence, the situation will be different. Imagine that I have received a report claiming that there are problems with a trust company in that it has failed to properly register its information, etc. with the authorities and thus committed an offence. The complainant also provided some documents. If these documents are submitted to the law enforcement agencies, they cannot ignore the matter because the law provides that investigation shall commence within a certain period after notice of the matter. Mr WONG Ting-kwong said earlier that the record keeping period was five years after which the matter could not be dealt with. Nevertheless, if a person keeps the relevant documents for some time intentionally or for whatever reasons, and then submits the documents after six, seven or eight years, the authorities have no choice but to conduct investigations, and resources are needed for investigation.

Thus, Members may consider supporting Mr James TO’s amendment from the perspective of lessening the responsibility of the authorities in handling this kind of offences which are not too serious.

Deputy Chairman, my second point concerns the issue of international standards. I am considering the matter very simply. Mr Holden CHOW said earlier that if we change the word "discovery" to "commission", international organizations will say that Hong Kong has not done enough in combating terrorist activities. But, do not forget that Members have stressed during the resumption of the second reading debate on the Bill that we should not do too much and it will suffice to do just enough. If the time limit is five years according to international standards, we should change our time limit from six years to five years. If we want to strike a balance between complying with international regulations and facilitating business, we should try our best to avoid creating troubles to the authorities or members of the trades. As Mr James TO’s remarkable team has pointed out, there is no international standard on whether the time limit for prosecution should run from the date of "discovery" or "commission" of the offence. If we can lessen the burden of handling this kind of less serious offences on law enforcement agencies, it will certainly be better.
Considering these two views, I therefore urge Members to support Mr James TO's amendment. Thank you.

**DEPUTY CHAIRMAN** (in Cantonese): Does any other Member wish to speak?

**MR HOLDEN CHOW** (in Cantonese): Deputy Chairman, the discussion today is indeed very meaningful. In this special session, Members have had a serious discussion on Mr James TO's amendment which I think is enlightening.

Since views have been expressed from the so-called "commission" camp or the "discovery" camp, let me give my views as well. Regarding the argument of the Government on the "discovery" of the offence, Mr CHAN Chi-chuen said earlier that the time when the offence came to the notice would not be known. In fact, if the matter is reported, a file will be opened at the Companies Registry; there will be a formal record and the date when the offence is discovered will be specified. I would mainly like to raise this point. I disagree with the remark made by a Member earlier that it would not be known when the offence came to the notice of the Companies Registry. From the perspective of a law enforcement agency (e.g. the Companies Registry), assuming that legal proceedings are instituted, the Companies Registry has to tell the Judge in court when the offence comes to its notice, i.e. when the offence is "discovered". I think the date on which a person reports the case and a file is opened is the date the offence "comes to the notice". Thus, I disagree with the argument made by Members of the "commission" camp that the time of the "discovery" of the offence cannot be ascertained.

(THE CHAIRMAN resumed the Chair)

On the contrary, from another perspective, I think when an offence is "commissioned" may not be ascertained. This point is still arguable. But regarding when an offence is "discovered", it should be the date the law enforcement agency receives the report. From this perspective, I think the "discovery" camp has its points and justifications.
Furthermore, I have certainly listened attentively to Mr James TO's speech. He asked us not to worry, saying that the offences were relatively minor and the international organizations would not consider that we have not fully complied with the regulations for failing to take certain actions. However, from another perspective, if Mr James TO's amendment is passed, the time limit for prosecution will be three years. I do not know if that will give rise to another interpretation. To a certain extent, it may make people feel relaxed. In other words, it may send a message to potential law-breakers that the time limit for prosecution is only three years and they can ignore the laws after three years. This will reduce the importance attached by people to the regulations.

In fact, I have based my arguments on very simple principles. I think the anti-money laundering laws are important to some major concerns such as Hong Kong's reputation and whether Hong Kong can keep abreast of international standards. I am not asking the Government to impose excessively stringent requirements and as I often say, I am not asking Members to act fastidiously. Never do that. I also agree with the view expressed by Mr James TO at the meeting of the Bills Committee. As customer records are only required to be kept for five years and not six years under the customer due diligence measures according to international standards, we do not have to extend the record-keeping period. I agree with this point of Mr TO which is correct. Nevertheless, as I am more concerned about principles, I do not want to give others the impression that Hong Kong has not endeavoured to combat money laundering or comply with international standards, nor do I want to send people the message that there is actually room for evading liability. If people think that they can ignore the relevant regulations after the time limit for prosecution of three years, they will naturally feel relaxed. I am worried that it will make people attach less importance to the laws. These are my views and I would certainly welcome Members to raise other views for discussion.

I will speak again later and see if Members have other views. Thank you.

MR JAMES TO (in Cantonese): Chairman, in fact, after Mr WONG Ting-kwong has spoken for the first time, I have answered his queries one by one, but it seems that he has not heard me. It does not matter. I would only like to raise one point. Speaking of anti-terrorism measures seems threatening, and
there is no time limit regarding prosecution of certain serious offences. However, that is not the issue. We are now discussing about "non-indictable offences" which is certainly a technical term. Simply put, prosecution of such offences will not be instituted in the District Court, or rather, in the High Court. In other words, these offences are at the lowest and the most basic level in the structure of anti-terrorism measures and they are the most minor offences. Thus, these offences should be dealt with in the same way as other regulatory offences of the same type, e.g. late submission of an application form or late updating of certain information. Besides, we should consider the resources and manpower of the Government as well as the usual record-keeping period of the general public.

CHAIRMAN (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, Mr James TO, do you wish to speak again?

(Mr James TO indicated that he did not wish to speak again)

CHAIRMAN (in Cantonese): Secretary for Financial Services and the Treasury, do you wish to speak again?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I oppose the amendments proposed by Mr James TO on behalf of the Government.

The new section 53ZO of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("the Bill") provides the time limit for prosecuting all offences under the proposed new Part 5A (i.e. the licensing regime for trust or company service providers). That section is the equivalent provision of existing section 53 which applies to money service operators. The Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance has worked well since its
commencement in 2012, whereas Mr James TO's proposed amendment will create inconsistencies in the time limit for prosecuting offences under two licensing regimes.

Similar time limits for prosecution are provided in other existing legislation, e.g. the Marriage Ordinance and the Mandatory Provident Fund Schemes Ordinance. Thus, the drafting approach in the new section 53ZO is nothing new.

I would like to point out that the offences provided in the Bill concerning trust or company service providers, including carrying on a trust or company service business without a licence, are not minor offences and are punishable with a fine or imprisonment. Considering the seriousness of the offences and the policy intent, we think 12 months is a reasonable time limit for prosecution and do not intend to change the drafting approach of the current provision.

Chairman, I so submit.

(While the Chairman was putting the question, Mr James TO raised his hand to indicate his wish to speak)

**CHAIRMAN** (in Cantonese): You cannot speak again after the Secretary has spoken.

(Mr James TO requested to speak again)

**CHAIRMAN** (in Cantonese): I have asked you earlier whether you would like to speak again, but you indicated that you would not do so.

**MR JAMES TO** (in Cantonese): Chairman, I would like to respond to the views expressed by the Secretary earlier and would not repeat the points which I have made.
CHAIRMAN (in Cantonese): I understand, but if I give you permission to speak again after the Secretary has spoken, the Secretary may speak again in response. According to the voting arrangements, I now put the question to you and that is: That the amendments moved by the Secretary for Financial Services and the Treasury be passed. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for five minutes.

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr James TO, Prof Joseph LEE, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Ms Claudia MO, Mr Michael TIEN, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Dr Fernando CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Dr Junius HO, Mr HO
Kai-ming, Mr LAM Cheuk-ting, Mr Holden CHOW, Mr SHIU Ka-fai, Mr SHIU Ka-chun, Mr Wilson OR, Ms YUNG Hoi-yan, Dr Pierre CHAN, Mr CHAN Chun-ying, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Dr CHENG Chung-tai, Mr KWONG Chun-yu and Mr Jeremy TAM voted for the amendments.

THE CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

THE CHAIRMAN announced that there were 53 Members present and 52 were in favour of the amendments. Since the question was agreed by a majority of the Members present, he therefore declared that the amendments were passed.

CLERK (in Cantonese): Clauses 7, 8, 9, 26 and 34 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses as amended read out just now stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CHAIRMAN (in Cantonese): Mr James TO, please move your amendment.
MR JAMES TO (in Cantonese): Chairman, I move that clause 18 be further amended by my amendment as set out in the Appendix to the Script.

_Proposed amendment_

**Clause 18 (see Annex I)**

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr James TO be passed. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr James TO rose to claim a division.

CHAIRMAN (in Cantonese): Mr James TO has claimed a division. The division bell will ring for five minutes.

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr James TO, Prof Joseph LEE, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr SHIU Ka-chun, Dr Pierre CHAN and Mr KWONG Chun-yu voted for the amendment.
Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai and Mr LUK Chung-hung voted against the amendment.

Mr CHAN Kin-por and Mr CHAN Chun-ying abstained.

THE CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

Geographical Constituencies:

Ms Claudia MO, Mr CHAN Chi-chuen, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Dr Helena WONG, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Ms Tanya CHAN, Dr CHENG Chung-tai and Mr Jeremy TAM voted for the amendment.

Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Mr Wilson OR, Ms YUNG Hoi-yan and Mr CHEUNG Kwok-kwan voted against the amendment.

Dr Junius HO abstained.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, 8 were in favour of the amendment, 15 against it and 2 abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 12 were in favour of the amendment, 14 against it and 1 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.
CLERK (in Cantonese): Clause 18 as amended.

CHAIRMAN (in Cantonese): As the Secretary's amendments to clause 18 have been passed by the committee earlier, I now put the question to you and that is: That clause 18 as amended stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CHAIRMAN (in Cantonese): All the proceedings on the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I now report to the Council: That the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017

has been passed by committee of the whole Council with amendments. I move the motion that "This Council adopts the report".
PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

In accordance with Rule 59(2) of the Rules of Procedure, the motion shall be voted on forthwith without amendment or debate.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

Third Reading of Government Bill


ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (FINANCIAL INSTITUTIONS) (AMENDMENT) BILL 2017

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 be read the Third time and do pass.
PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

Mr Dennis KWOK rose to claim a division.

PRESIDENT (in Cantonese): Mr Dennis KWOK has claimed a division. The division bell will ring for five minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr James TO, Prof Joseph LEE, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Ms Claudia MO, Mr Michael TIEN, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung,
Mr Christopher CHEUNG, Dr Fernando CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Alvin YEUNG, Mr CHU Hoi-dick, Dr Junius HO, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr Holden CHOW, Mr SHIU Ka-fai, Mr SHIU Ka-chun, Mr Wilson OR, Ms YUNG Hoi-yan, Dr Pierre CHAN, Mr CHAN Chun-ying, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Dr CHENG Chung-tai, Mr KWONG Chun-yu and Mr Jeremy TAM voted for the motion.

Mr Dennis KWOK abstained.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

THE PRESIDENT announced that there were 52 Members present, 50 were in favour of the motion and 1 abstained. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.


Resumption of Second Reading Debate on Government Bill

PRESIDENT (in Cantonese): This Council resumes the Second Reading debate on the Inland Revenue (Amendment) (No. 5) Bill 2017.

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 2017

Resumption of debate on Second Reading which was moved on 18 October 2017

PRESIDENT (in Cantonese): Mr WONG Ting-kwong, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's Report.
MR WONG TING-KWONG (in Cantonese): President, in my capacity as Chairman of the Bills Committee on the Inland Revenue (Amendment) (No. 5) Bill 2017 ("the Bills Committee"), I would like to present the report of the Bills Committee to the Council and report on the key areas of work of the Bills Committee.

The Inland Revenue (Amendment) (No. 5) Bill 2017 ("the Bill") seeks to amend the Inland Revenue Ordinance ("IRO") so as to empower the Chief Executive in Council to give effect to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters ("Multilateral Convention") and other agreements on international tax cooperation in Hong Kong. It will also amend a number of provisions on the automatic exchange of financial account information in tax matters ("AEOI") to align them with the Common Reporting Standard ("CRS") promulgated by the Organisation for Economic Co-operation and Development ("OECD").

The Bills Committee has held two meetings to discuss the Bill with the Government. It supports the major proposals in the Bill. Members of the Bills Committee have noted that the participation in the Multilateral Convention can allow Hong Kong to enhance its effectiveness and efficiency in implementing AEOI and base erosion and profit shifting ("BEPS") initiatives required by OECD.

The Bills Committee has noted that the Multilateral Convention is only open for signature by state parties and the Central People's Government ("CPG") has given in-principle agreement to extend the application of the Multilateral Convention to Hong Kong. It is the Government's policy that Hong Kong will take forward the mandatory provisions of the Multilateral Convention while making suitable reservations or declarations for the optional provisions, so that such provisions will not apply or will only partially apply to Hong Kong. The provisions which will not apply to Hong Kong include those on simultaneous tax examinations, tax examinations abroad and assistance in recovery of taxes. Upon passage of the Bill, the Government will seek CPG's assistance in depositing a declaration to OECD for territorial application of the Multilateral Convention to Hong Kong, together with the reservations or declarations applicable to Hong Kong. After that, the Government will recommend the Chief Executive in Council to make an order under section 49(1A) of IRO (as amended by the Bill) to declare that the Multilateral Convention shall have effect in Hong
Kong. The order is subject to the negative vetting procedure of the Legislative Council.

Given that the jurisdictions which have participated in the Multilateral Convention may have also signed bilateral tax treaties such as Comprehensive Avoidance of Double Taxation Agreements ("CDTAs") or Tax Information Exchange Agreements ("TIEAs") with Hong Kong, the Bills Committee has enquired about how the Government will determine the basis for the exchange of information ("EOI") with the relevant jurisdictions.

The Government has advised that the Multilateral Convention, CDTAs or TIEAs are different platforms to facilitate EOI on tax matters. In general, the Inland Revenue Department will continue to use CDTAs or TIEAs as a legal basis for the exchange of tax information with Hong Kong's bilateral tax treaty partners. The Multilateral Convention will be used as the instrument for EOI if the jurisdiction concerned is a party to the Multilateral Convention but not a bilateral tax treaty partner of Hong Kong. A jurisdiction when making an EOI request must identify whether the request is made in accordance with the Multilateral Convention, a CDTA or TIEA and state the information requested.

The Bills Committee has expressed concerns about the scope of information to be exchanged under the Multilateral Convention and the measures to protect the confidentiality of information exchanged, particularly when such information involved personal data.

The Government has advised that Hong Kong would participate in the following three forms of information exchange: firstly, EOI on request (i.e. when the requesting party seeks particular tax information from the requested party related to a particular case); secondly, automatic EOI (i.e. when specified information comprising many individual cases of the same category is exchanged automatically at regular intervals); and thirdly, spontaneous EOI on tax rulings (i.e. when the supplying party, having obtained information which it believes will be of interest to the receiving party, passes on the information without the receiving party having asked for it).

As regards confidentiality and data protection safeguards, the Government has stressed that the Bill does not alter the safeguards currently applicable to the handling of tax information (including personal data) under IRO. The
Government will also evaluate whether the receiving party is able to meet with the data protection obligations under the Multilateral Convention by considering, among others, whether the receiving party has put in place sufficient safeguards to ensure protection for data exchanged as required under the laws of Hong Kong (including the Personal Data (Privacy) Ordinance). If the receiving party is unable to meet the required standard, depending on the circumstances, Hong Kong may decline to provide information to the receiving party or enter into an arrangement with the receiving party whereby the receiving party agrees to comply with the data protection requirements of Hong Kong before proceeding with EOI. Where the receiving party does not comply with its obligations regarding data protection under the Multilateral Convention or the data protection arrangement with Hong Kong, the Government may suspend EOI with the receiving party under the Multilateral Convention.

The Bills Committee has also received a written submission from The Hong Kong Association of Banks ("HKAB"), which gave views on the operational impact on financial institutions ("FIs") arising from the proposed amendments in the Bill relating to the AEOI provisions. As FIs have already made preparations for the first report in relation to the implementation of AEOI that is due for May 2018, HKAB is concerned that FIs may need to revisit their relevant procedures, thus creating a compliance burden on them.

The Government has reiterated that the amendments concerning AEOI under the Bill aim to align the relevant provisions under IRO with CRS without making substantial changes to the due diligence requirements. In order to address the concerns expressed by HKAB and minimize the compliance burden on FIs, the Government has proposed Committee stage amendments ("CSAs") to specify 1 January 2019 as the commencement date for clauses 5 to 11 of the Bill (i.e. the new provisions to be aligned with CRS contemplated under the Bill) so as to allow sufficient lead time for FIs to fine-tune their systems and mode of operation.

The Bills Committee has no objection to CSAs proposed by the Government. The Bills Committee will not propose any CSAs to the Bill and supports the resumption of the Second Reading debate on the Bill.

President, the following are my opinions, as well as the views of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") on
the Bill, which mainly seeks to give effect to the Multilateral Convention for Hong Kong to enhance its effectiveness in implementing the AEOI and BEPS initiatives required by OECD.

Without doubt, the general trend in international tax cooperation is to strengthen EOI across jurisdictions for tax purposes so as to prevent major multinational enterprises having the intent or attempt to shift their profits to low- or no-tax jurisdictions to avoid tax. Hong Kong, as an international financial centre, is duty-bound to honour its international obligations by improving its tax information exchange arrangements with other jurisdictions to combat BEPS.

The Multilateral Convention is only open for signature and participation by sovereign states. However, considering the special circumstances of Hong Kong, CPG has given in-principle agreement to extend the application of the Multilateral Convention to Hong Kong. When the Hong Kong SAR Government gives effect to the Multilateral Convention in Hong Kong, it may, in addition to taking forward the mandatory provisions of the Multilateral Convention, make suitable reservations or declarations for the optional provisions based on the actual situation of Hong Kong. By doing so, these optional provisions will not apply or will only partially apply to Hong Kong. This arrangement, in my view, is commendable and worth supporting as it allows Hong Kong to adapt to the changes easily in the course of fulfilling its international obligations.

Moreover, during the scrutiny of the Bill, the major concerns of members were whether, under TIEAs, the privacy of Hong Kong residents would be protected and that the banking sector might not have sufficient time to prepare for the introduction of the new tax information exchange arrangement.

During the scrutiny, the Administration stressed that the SAR Government, when exchanging tax information with other overseas jurisdictions, would evaluate whether the receiving party was able to meet with the data protection obligations under the Multilateral Convention by considering, among others, whether the receiving party had put in place sufficient privacy safeguards as required under the Personal Data (Privacy) Ordinance of Hong Kong; if not, Hong Kong might suspend EOI with the receiving party to protect the privacy of Hong Kong residents.
As for the concern about insufficient lead time for the banking sector to implement the new tax information exchange arrangement, the Administration, after noting the concerns raised by HKAB, has proposed CSAs to postpone the commencement date for clauses 5 to 11 of the Bill to 1 January 2019, so that the banking sector could have sufficient time to prepare for the new tax information exchange arrangement.

In conclusion, the Bill allows Hong Kong to honour its international obligations and take into account the actual situation of our society without overburdening the local financial sector. Meanwhile, it helps protect the privacy of Hong Kong residents. DAB and I are therefore in support of the Bill and its CSAs.

Thank you, President.

MR KENNETH LEUNG: President, I think most of the audience today would be a little bit perplexed by the number of Inland Revenue bills that were introduced to this legislature in 2017. Now, we are in the first month of 2018, and this is the Inland Revenue (Amendment) (No. 5) Bill 2017 ("the Bill"). I am a member of the Bills Committee on this Bill.

To introduce this Bill, I think it would be fair to say that the enactment of this Bill is a prerequisite for another bill, namely the Inland Revenue (Amendment) (No. 6) Bill 2017, of which I am the Bills Committee Chairman. It implements certain principles of the Base Erosion and Profit Shifting ("BEPS") initiative of the Organisation for Economic Co-operation and Development ("OECD"). The Bill is essential for Hong Kong to remain an international financial centre for a number of reasons. This Bill empowers the Chief Executive in Council to give effect on the Multilateral Convention on Mutual Administrative Assistance in Tax Matters ("the Multilateral Convention") and any other tax agreements that apply to Hong Kong and to make necessary amendments to the Inland Revenue Ordinance ("IRO").

In order to comply with the Common Reporting Standard promulgated by OECD, we need a specific empowering section in IRO to enable our Chief Executive in Council to enter into multilateral conventions, tax conventions namely. This is the first time that Hong Kong is being given a kind of associate membership of the Multilateral Convention because, in fact, as what Mr WONG
Ting-kwong has just mentioned in his report, the signatories of the Multilateral Convention are sovereign states and not jurisdictions. So, Hong Kong, as a special administration region, can only benefit from the Multilateral Convention provided that the Central Government has agreed to extend the coverage of the Multilateral Convention to Hong Kong. For various reasons, the SAR Government has decided not to enact all the provisions of the Multilateral Convention, basically because of the reason of high compliance costs and the fact that we are only required to comply with the basic standard required by the international community for tax information exchange and tax transparency.

It is important to get the passage of this Bill because the European Union, among other international organizations, has been assessing whether Hong Kong is a tax compliant jurisdiction. In fact, being a member or an associated member of the Multilateral Convention is one of the criteria adopted by the European Union to assess whether a jurisdiction is compliant with international standard. The European Union evaluates jurisdictions' compliance on fair taxation and implementation of BEPS measures. But, as I have just said, if Hong Kong cannot go into being a member or an associated member of the Multilateral Convention, it would not, in fact, be able to do any Country-by-Country Reporting or do the local or the master files reporting under the Inland Revenue (Amendment) (No. 6) Bill 2017. That is mainly because, at the moment, under IRO, Hong Kong tax authorities or the Hong Kong Government is only empowered to enter into bilateral tax conventions, namely the Comprehensive Double Taxation Agreement for the avoidance of taxation or the Agreement on the Exchange of Information, and it is a country-to-country, a bilateral type of convention. This amendment enables the Hong Kong Government, or more precisely, the Chief Executive in Council to authorize Hong Kong as a signatory of any multilateral conventions. I say "any multilateral conventions" because, in the future, Hong Kong—apart from being given access to the multilateral conventions, the subject of which we are talking about—may be able to enter into tax treaties with a number of jurisdictions and not just a bilateral agreement. Hopefully, it will save time and costs for the Inland Revenue Department from putting in time, costs and resources to negotiate bilateral treaties.

Now, of course, there are mechanisms under which BEPS and all the reporting requirements under BEPS will be implemented fully. But the multilateral conventions would enable the BEPS information exchange to take place in a more effective manner. And having said so, of course, we are not interested in having information exchange with every jurisdiction under the sun.
I think one task of the Bill is also to list out the jurisdictions of which we would be interested in having information exchange in the future.

On a separate note, I do notice that Hong Kong is obliged to overhaul its tax legislature from international compliance perspective. Evidently, we have the Inland Revenue (Amendment) (No. 6) Bill and of course, there is another bill which a Bills Committee meeting was held yesterday morning. I am talking about the Inland Revenue (Amendment) (No. 7) Bill 2017, which does not concern international taxation but concerns another aspect of our tax system, i.e. mainly to implement the Chief Executive's proposal in the two tier tax system. But having said so, as you can see, we are amending a single piece of legislation seven times during just one calendar year. Is it a little bit too much?

Of course, we do think there are very frequent amendments. It is not productive because after completing the enacting of one bill, there comes another bill. But unfortunately, Hong Kong is also on the receiving end of many requests from international tax authorities to request information from us.

On this note, I of course firmly support the passage of the Bill as soon as possible because without which the Inland Revenue (Amendment) (No. 6) Bill 2017 on BEPS would not be able to be fully implemented. However, I must remind the Financial Services and the Treasury Bureau that our colleagues in the Inland Revenue Department may be overworked and overstretched. Recently, I note that the Bureau has come forward to the Panel on Financial Affairs to request for creating a Chief Assessor position, which will add on to the existing Chief Assessor position to help negotiate international treaties. But I do think, in the long run, since Hong Kong is a very open economy and we have a lot of transactions and obligations on the international level, international taxation … especially after the passage of the BEPS Bill, the interactions between us and various tax authorities, the interactions between us and different international organizations such as the European Union, OECD and the United States Internal Revenue Services will only be increasing year after year. So, I am very concerned about whether we do have the capacity and resources to deal with all these requirements.

Therefore, I would urge the Bureau, with a passage of these Bills, also consider seriously whether it would be advisable to create a separate unit. Of course, we do have four different units handling salaries tax, profits tax, tax investigation, compliance, etc. within the Inland Revenue Department. I would
urge the Bureau to seriously consider establishing a new unit dealing solely with international tax policies and tax matters. This unit will, of course, be headed up by an Assistant Commissioner.

I do think, if you got the detail planning, document and reasons, I would gain support from Members in this Chamber to support this proposal and to make available any resources that is reasonably required.

President, I will rest my case here. I will urge my colleagues to support the resumption of the Second Reading of the Bill. Thank you.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to reply. Then, the debate will come to a close.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the Inland Revenue (Amendment) (No. 5) Bill 2017 ("the Bill"), introduced to the Legislative Council for scrutiny last October, seeks to empower the Chief Executive in Council to give effect to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters ("Multilateral Convention") and other agreements on international tax cooperation that apply to Hong Kong, and to align the Inland Revenue Ordinance ("IRO") with the Common Reporting Standard ("CRS") promulgated by the Organisation for Economic Co-operation and Development ("OECD").

The Bills Committee held two meetings. I would like to give my special thanks to the Chairman of the Bills Committee, Mr WONG Ting-kwong, and all other members of the Bills Committee for their efforts that enabled the scrutiny to be completed smoothly.

As an international financial centre, Hong Kong has been committed to enhancing tax transparency, combating cross-border tax evasion, and preparing for the implementation of the new international standards under the automatic
exchange of financial account information in tax matters ("AEOI") and base erosion and profit shifting regimes introduced by OECD. Meanwhile, the international community has been monitoring jurisdictions' progress in the implementation of the exchange of information ("EOI") and putting emphasis on a wide network of EOI to ensure a level-playing field for businesses.

Given the continued expansion in the scope and network of tax information exchanges in the international community, Hong Kong can no longer sticks to the established bilateral approach for implementing various new tax standards. A more practical approach will be riding on the Multilateral Convention to implement the relevant initiatives. Participation in the Multilateral Convention is not only a catalyst to expand the network of tax information exchanges quickly, but also a key element when OECD and the European Union ("EU") consider whether a tax jurisdiction is "non-cooperative".

I believe Members are aware that EU published a list of "non-cooperative tax jurisdictions" last month. Although Hong Kong is not on the list, it has been put on a watch list with 46 other jurisdictions. Hong Kong must expeditiously complete the work for participating in the Multilateral Convention as promised and commence the first AEOIs with an extensive number of jurisdictions before this September, so as to demonstrate our determination to implement the new international tax standards.

As international tax cooperation is developing fast, we expect more and closer tax cooperation in the future. In view of this, we propose, under the Bill, that the scope of section 49 of IRO be expanded to empower the Chief Executive in Council to declare by order that Hong Kong participates in multilateral tax agreements and new areas of international tax cooperation. We have also taken this opportunity to address the inconsistencies between IRO and CRS promulgated by OECD by amending IRO to ensure alignment.

In view of the in-depth and detailed discussion of the Bills Committee on the proposed amendments, here, I would like to respond to the three major concerns raised by members and stakeholders.

Firstly, regarding the procedures for giving effect to the Multilateral Convention and other agreements that apply to Hong Kong, the first step is to pass the Bill to provide Hong Kong with a legal framework for giving effect to multilateral tax arrangements according to the amended IRO. After the passage
of the Bill, we will immediately seek the assistance of the Central People's Government ("CPG") in depositing the declaration for territorial extension to OECD so that the application of the Multilateral Convention shall be extended to Hong Kong, given that the Multilateral Convention is only open for signature by sovereign states. This is the second step. After finishing the first two steps, we will recommend the Chief Executive in Council to make an order to declare that the Multilateral Convention shall have effect in Hong Kong. The order will be made under the amended IRO and subject to the scrutiny of the Legislative Council by negative vetting.

Secondly, Members and the public are concerned about the scope of information exchanges under the Multilateral Convention and the confidentiality issue. Overall speaking, the scope of information to be exchanged, be it conducted on a bilateral basis or under the Multilateral Convention, is generally the same. The Bill does not alter the high level of privacy and confidentiality safeguards currently applicable to the handling of tax information (including personal data) under IRO. In considering whether to exchange information pursuant to the Multilateral Convention with a particular jurisdiction, the Government will also evaluate whether the receiving party is able to meet with the data protection obligations under the Multilateral Convention.

The third concern is the impact of the amendments to AEOI provisions. In order to ensure that the legal framework of Hong Kong for AEOI is in line with the OECD standards, we have to make some technical amendments to the relevant provisions of IRO. Although these amendments do not make substantial changes to the due diligence requirements for financial institutions ("FIs"), we have taken on board the views given by The Hong Kong Association of Banks during the scrutiny of the Bill on the need to minimize the compliance burden on FIs. The Government will move Committee stage amendments to specify 1 January 2019 as the commencement date for the relevant clauses to allow sufficient time for FIs to fine-tune their systems and mode of operation. As for other clauses of the Bill which seek to expand the scope of section 49 of IRO, they will come into operation upon the date of gazettal of the Bill after its enactment.

Upon passage of the relevant amendments by the Legislative Council, IRD will issue updated guidelines to FIs and continue to provide them with support as appropriate.
President, to allow Hong Kong to implement the new initiatives on international tax cooperation more effectively and reduce the risk of Hong Kong being identified as a "non-cooperative tax jurisdiction", Hong Kong must complete the procedures for participating in the Multilateral Convention as soon as practicable. After the passage of the Bill, there will still be some follow-up work, including seeking the assistance of CPG in depositing the declaration for territorial extension to OECD and recommending the Chief Executive in Council to make an order to declare that the Multilateral Convention shall have effect in Hong Kong. The relevant work is subject to a very tight timetable.

The Bill is supported by the Bills Committee. Members have also shown their support to the Bill in their earlier speeches. I urge Members to support the passage of the Bill.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Inland Revenue (Amendment) (No. 5) Bill 2017 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.


Council became committee of the whole Council.
Consideration by Committee of the Whole Council

CHAIRMAN (in Cantonese): Council now becomes committee of the whole Council to consider the Inland Revenue (Amendment) (No. 5) Bill 2017.

Members may refer to the Appendix to the Script for the debate and voting arrangements for the Bill.

INLAND REVENUE (AMENDMENT) (NO. 5) BILL 2017

CHAIRMAN (in Cantonese): I will first deal with the clauses with no amendment. I now propose the question to you and that is: That the following clauses stand part of the Bill.

CLERK (in Cantonese): Clauses 2 to 11.

CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 2 to 11 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.
SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Chairman, I move amendments to clause 1 of the Inland Revenue (Amendment) (No. 5) Bill 2017 ("the Bill"). These amendments are proposed to specify 1 January 2019 as the commencement date for the relevant clauses, given that it takes time for reporting financial institutions ("FIs") to prepare for the implementation of the refinements as proposed in the Bill for the automatic exchange of financial account information in tax matters ("AEOI"). The Bills Committee on Inland Revenue (Amendment) (No. 5) Bill 2017 supports these amendments.

Clauses 5 to 11 seek to make technical amendments on a number of AEOI provisions in Inland Revenue Ordinance ("IRO") to align IRO with the Common Reporting Standard promulgated by the Organisation for Economic Co-operation and Development. These amendments do not make substantial changes to the due diligence requirements for FIs. However, it is understood that reporting FIs will have to take time to fine-tune their systems and mode of operation for the implementation of the refinements.

As we consider it reasonable to allow FIs with sufficient time to fine-tune their systems and mode of operation for the implementation of the relevant refinements, we propose moving amendments to specify 1 January 2019 as the commencement date for clauses 5 to 11 of the Bill. In other words, the existing AEOI provisions will continue to apply to FI reports due for May 2019 (i.e. covering data in 2018) and the refined provisions will only start to apply to FI reports due for May 2020 (i.e. covering data in 2019) and thereafter.

As for other clauses of the Bill which seek to expand the the scope of section 49 of IRO, given that they will not have direct impact on the work of FIs, they will come into operation upon the date of gazetral of the Bill after its enactment.

Chairman, I urge Members to support the amendments proposed by the Government.

Proposed amendments

Clause 1 (see Annex II)
CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Financial Services and the Treasury be passed. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the amendments passed.

CLERK (in Cantonese): Clause 1 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clause 1 as amended stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.
CHAIRMAN (in Cantonese): All the proceedings on the Inland Revenue (Amendment) (No. 5) Bill 2017 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I now report to the Council: That the Inland Revenue (Amendment) (No. 5) Bill 2017 has been passed by committee of the whole Council with amendments. I move the motion that "This Council adopts the report".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

In accordance with Rule 59(2) of the Rules of Procedure, the motion shall be voted on forthwith without amendment or debate.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.
Third Reading of Government Bill


INLAND REVENUE (AMENDMENT) (NO. 5) BILL 2017

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the

Inland Revenue (Amendment) (No. 5) Bill 2017

be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (Amendment) (No. 5) Bill 2017 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.
Resumption of Second Reading Debate on Government Bill


BANKING (AMENDMENT) BILL 2017

Resumption of debate on Second Reading which was moved on 25 October 2017

PRESIDENT (in Cantonese): Mr CHAN Chun-ying, Chairman of the Bills Committee on the Bill, will now address the Council on the Committee's Report.

MR CHAN CHUN-YING (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Banking (Amendment) Bill 2017 ("the Bills Committee"), I would like to report on the deliberations of the Bills Committee.

The Banking (Amendment) Bill 2017 ("the Bill") seeks to amend the Banking Ordinance ("BO") (Cap. 155), to implement the requirements of the Financial Stability Board on recovery planning, implement the new framework of the Basel Committee on Banking Supervision for large exposures, cope with future changes and correspondingly repeal two items of subsidiary legislation made under BO.

The Bills Committee has held two meetings and received views from deputations. All deputations are generally in support of the Bill and the deputations have requested the Administration to allow sufficient time for the banking sector to make necessary arrangements before 1 January 2019 to implement the relevant subsidiary legislation to be made by the Administration.

The Bills Committee has discussed matters relating to the Bill in the course of deliberations. I would like to briefly report on the points of concern of the Bills Committee as follows:
First, the Bills Committee is concerned about how the penalties prescribed for committing an offence relating to recovery planning compare with the penalties under legislation regulating other financial institutions ("FIs") in Hong Kong. In response, the Administration has advised that, in formulating the offence provisions, it has made reference to BO and the Financial Institutions (Resolution) Ordinance, and the provisions are broadly in line with those under the two Ordinances. So, the proposed penalties are reasonable.

Moreover, the Bills Committee is concerned about how the Monetary Authority ("MA") will ensure that directors of authorized institutions ("AIs") will be notified of the requirements relating to recovery planning. The Administration is of the view that MA's guidance to AIs on recovery planning covers governance structure and oversight to ensure that the senior management and boards of directors are appropriately informed about AIs' recovery plan.

The Bills Committee has expressed concerns whether there are any requirements or restrictions imposed on directors or persons who are responsible for implementing the recovery plan. The Administration states that a recovery plan is a management tool "owned" by an AI and it follows that AI itself is best placed to assign appropriate personnel responsible for implementing the recovery plan, and the Hong Kong Monetary Authority ("HKMA") does not impose any specific requirement or restriction on directors or persons in the context of recovery planning. However, HKMA has issued guidance on corporate governance of locally-incorporated AIs, which includes the expectation on the boards of AIs to ensure that appropriate succession plans are in place for senior management, and to manage the associated risks in a range of possible scenarios.

The Bills Committee also expresses concerns about whether the recovery plan of AIs will include measures which will adversely affect the general public. The Administration has responded that it is a key objective of recovery planning that AIs can manage their operations on a business-as-usual basis. Thus, it is not envisaged that the implementation of AIs' recovery plans will adversely affect the general public.

Moreover, the Bills Committee enquires whether recovery planning will be required for AIs' holding companies which are incorporated overseas, and what actions will be taken in case an overseas-incorporated AI or its branch operations in Hong Kong is under severe stress. The Administration has advised that the approach proposed in the Bill is consistent with overseas jurisdictions, such as the
European Union. In other words, powers in relation to recovery planning will not be extended to AIs' holding companies which are incorporated overseas to avoid duplication of supervisory regimes. The Administration and HKMA stress that in the event of an overseas-incorporated AI being under severe stress, they will communicate with the relevant authorities supervising the AI's holding company for information and necessary coordination.

In addition, the Administration has responded to the questions raised by the Legal Adviser to the Bills Committee on the provisions.

Details of the Bills Committee's deliberations are as set out in the report submitted to the Legislative Council.

The Bills Committee supports the resumption of Second Reading debate on the Bill and the Bills Committee will not propose any amendments to the Bill.

The following is a brief account of my views on the Bill. Since the formal commencement of the operation of the current-term Legislative Council, deliberations on a number of bills related to the financial sector have been completed or the legislative processes are about to be completed within a year and three months, and a number of financial-related bills have been or will be submitted to the Bills Committee for consideration. I must emphasize that the above mentioned legislative amendments are closely linked to the management, employees and clients of the financial sector. Once again, I request the Government and HKMA to give the sector an appropriate buffer period before implementing any new legislation or issuing any new guidance. This will enable members of the sector to have sufficient time to get well prepared, including making reports to the Board of Directors, updating systems, training staff and communicating with clients so as to avoid unnecessary misunderstandings.

I fully understand that financial legislation must comply with international standards so as to maintain Hong Kong's competitiveness in the international financial arena. While constantly introducing new financial legislation and regulations, I urge the Government to conduct a comprehensive review of the provisions on the supervision and operation of FIs and repeal obsolete provisions. Let me illustrate by citing the example of the company registration system in Hong Kong. The first Companies Ordinance was enacted back in 1865. The
Standing Committee on Company Law Reform established in 1984 decided to conduct a review on the Companies Ordinance on a regular basis. Thereafter, the Government conducted an overall review of the Companies Ordinance in 1994. The new Companies Ordinance was passed by the Legislative Council on 12 July 2012 and fully implemented in 2014. It is essential for such a complicated ordinance covering extensive sectors to keep abreast of the times. Evidently, it is a general trend for the legislation to be constantly changing along with social changes. In light of the momentum of financial technology development, Hong Kong must also make preparations for the enactment of legislation lest the existing legislation should fail to catch up with the pace of technological development.

Lastly, I thank members of the Bills Committee who have taken time to attend the meetings even during Christmas holidays and carefully reviewed the relevant provisions. With these remarks, President, I hope Honourable Members will support the Bill.

MR KENNETH LEUNG (in Cantonese): President, I am a member of the Bills Committee on Banking (Amendment) Bill 2017.

As pointed out by Mr CHAN Chun-ying, a number of bills relating to the financial sector have been introduced into the Legislative Council this year or will be introduced in the near future. The Government has delayed the implementation of certain provisions of the Banking (Amendment) Bill 2017 ("the Bill") in response to the reasonable requests of the banking sector; I appreciate the consideration shown by the Financial Services and the Treasury Bureau to these institutions. In the international arena, new guidance are almost issued each day on taxation, anti-money laundering, capital requirements of banks, and similar requirements are even imposed on the Securities and Futures Commission and other international communities. Consequently, banks, securities firms, insurance companies or other financial institutions ("FIs") very often have to make very significant or abrupt changes in response to these international requirements and local legislation. I hope the Government will treat all FIs equal, be they large international banks, local banks, small insurance companies or securities firms. The Government should listen to their views on the implementation and timing of changes.
Safeguarding the interests of investors and ensuring the security of the financial systems are the key economic policies of all countries; we must also do the same. However, FIs of different sizes have different capabilities and resources for implementing the relevant provisions. For some multinational banks of FIs, their compliance departments may have more than 10 or even over 100 staff, they may even have more staff than the Financial Services and the Treasury Bureau. These institutions certainly do not have any problems. However, some local banks, FIs and securities firms may have difficulties in implementing the relevant provisions or regulations.

Apart from the issue of costs, how should the relevant provisions be implemented to ensure compliance? For example, many colleagues have talked about opening bank accounts. The formalities were simple three to four years ago, but many banks have started to introduce various requirements two years ago. Of course, they have to bear certain risks and it is better to do more than less to avoid troubles. This is risk management from the perspective of banks. Of course doing more due diligence is better than doing less. But for new clients (e.g. a new company), it is almost impossible for them to open a bank account.

I have recently set up a new company, but I may have to wait one or two years to open a bank account. That is because banks usually require clients to provide a business proposal for reference and clients have to provide information on their past business. How can a company develop business if it cannot open a bank account? This can be described as a chicken and egg situation.

With regard to recovery planning, I understand that each back has to submit a recovery plan to the Hong Kong Monetary Authority ("HKMA") so that in the event of an extreme condition, the recovery plans can be activated in an orderly manner. The recovery planning procedures or scales of different banks may differ but allow me to advise HKMA, the resources of banks should be taken into account as far as implementation is concerned, especially the implementation days and training. Although adjustments can be made, HKMA should set a most suitable standard. The genuine problem is that some banks do not even have the know-how. If many local FIs really do not have the know-how, I hope the Bureau will expeditiously provide relevant training through other industry organizations, enhance publicity and education or issue detailed guidelines.
One of the characteristics of FIs is that they are accustomed to strictly enforce the guidelines issued by the Administration, disregarding the impacts of on their business and the risk exposure to be borne. This may not be a good thing for investors or financial services users. Hong Kong is a city with a diversified economy. We do not wish to see that only multinational banks or Mainland banks with assets exceeding RMB1 trillion can operate here. We wish to see there are banks providing services to local small and medium enterprises ("SMEs"). As Mr CHAN Chun-ying is also aware, in the past 10 to 20 years, smaller-scale commercial banks that served SMEs had either closed down or became subsidiaries of major international banks. They no longer have the culture and spirit of assisting the development of local enterprises.

I hope that various sectors and industries, including the banking sector, can flourish, and foreign banks, state-owned banks and local banks can make the best efforts and give play to their strengths, such that Hong Kong as an international financial centre can always maintain its leading position.

With these remarks, President, I support the resumption of Second Reading debate on the Bill.

MR CHEUNG KWOK-KWAN (in Cantonese): President, on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB"), I speak in support of the Banking (Amendment) Bill 2017 ("the Bill").

The global financial crises in recent years have exposed the inadequacy of financial institutions ("FIs") in countering severe stress. To address this problem, the Financial Stability Board ("FSB"), established in 2009 by the G20 leaders, issued in 2014 a revised set of standards relating to recovery planning and resolution planning in its Key Attributes of Effective Resolution Regimes for Financial Institutions ("the Key Attributes").

The Key Attributes require jurisdictions to put in place an ongoing process for resolution and recovery planning covering, at a minimum, FIs that could be systemically important or critical if they fail. Supervisory authorities should ensure that FIs maintain a recovery plan and the relevant authorities should also have the requisite powers to mandate the implementation of recovery measures. As a member jurisdiction of FSB, Hong Kong has to implement these standards to ensure that local FIs are sufficiently prepared to respond to risk events.
The Financial Institutions (Resolution) Ordinance enacted in Hong Kong in June 2016 and implemented in July 2017 complied with the resolution planning requirement. In respect of recovery planning, at present the Monetary Authority ("MA") only relies on the information-gathering powers under the Banking Ordinance ("BO") to require authorized institutions ("AIs") to prepare recovery plans. Currently, there are no explicit provisions under BO relating to recovery planning by FIs. Therefore, the Administration proposes to prescribe such explicit recovery planning requirements in BO and make rules for the financial exposure limits of AIs to implement FSB requirements. DAB supports these requirements.

With regard to the recovery planning requirements, we agree to add a new part to BO so that MA would be empowered to require an AI to prepare, maintain and submit a recovery plan and to require AIs to ensure that their recovery plans meet the purpose. More importantly, the new amendment allows MA to require an AI to revise its recovery plan to address any deficiency or impediment; and to extend the recovery planning requirements to the locally incorporated holding companies of AIs.

As regards financial exposure limits, we note that for the purpose of implementing the new exposures framework of the Basel Committee on Banking Supervision, MA would be empowered, after consultation with the Financial Secretary, the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, The Hong Kong Association of Banks and The DTC Association, to make rules prescribing limits and restrictions in respect of exposures incurred by AIs. Such rules would be subsidiary legislation, the making of which is subject to negative vetting by the Legislative Council. In view of the highly technical nature of large exposure limits and the need to update the regulatory requirements from time to time to reflect the changes in international standards, the new framework and the need to update the regulatory requirements from time to time to reflect the changes in international standards, we agree to the arrangement to confer a general power on MA to make rules according to the new proposal.

We noticed that the Administration has consulted the banking sector earlier in respect of the legislative proposal on exposure limits and recovery planning and the Bill, and the industry is generally in support of the Bill.
For the above reasons, President, DAB has decided to support the Bill.

President, I so submit.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to rely. This debate will come to a close after the Secretary has replied.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move the resumption of Second Reading debate on the Banking (Amendment) Bill 2017 ("the Bill"). The Bill seeks to implement the latest international standards on banking regulation to provide for recovery planning and financial exposure limits, thereby enhancing the resilience of our banking system.

The first type of amendments is about recovery planning. According to international standards, we propose making clear provisions in the Banking Ordinance ("BO") to confer a general power on the Monetary Authority ("MA") to require an authorized institution ("AI") to prepare, maintain and submit a recovery plan setting out the measures that AI can take to stabilize and restore its financial resources and viability when AI comes under severe stress; and to meet other relevant recovery planning requirements to enhance transparency and certainty.

The second type of amendments in the Bill is for modernizing large exposure limits of AIs.

Under BO, AIs are subject to the prescribed limits and restrictions on financial exposures which seek to prevent an AI's exposures from becoming overly concentrated in certain aspects. Following the release by the Basel Committee on Banking Supervision in April 2014 of a new supervisory
framework for measuring and controlling large exposures, it is incumbent upon Hong Kong to bring its regulatory regime up-to-date in accordance with the latest international standards.

In view of the technical nature of the new framework and the need to update the regulatory requirements from time to time to reflect the changes in international standards, the Bill proposes that the relevant sections under BO should be repealed and MA would be empowered to make rules prescribing limits on exposures incurred by AIs by way of subsidiary legislation for the implementation of the new exposure limits framework. The Bill also seeks to remove obsolete provisions and repeal two items of subsidiary legislation.

President, I am pleased to see that the Bill has the support of the banking sector and the Bills Committee. I would like to thank Mr CHAN Chun-ying, Chairman of the Bills Committee, members, the Secretariat and the Legal Adviser for their efforts contributing to the successful completion of the scrutiny of the Bill. I am also grateful to Members who have spoken just now and I would like to thank them for their support of the Bill. I hope that the Legislative Council will pass the Bill as soon as possible so that we can implement these international standards on banking regulation on time so as to maintain the stability of our banking system and consolidate Hong Kong's position as an international financial centre.

President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Banking (Amendment) Bill 2017 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)
PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.


Council became committee of the whole Council.

Consideration by Committee of the Whole Council

CHAIRMAN (in Cantonese): Council now becomes committee of the whole Council to consider the Banking (Amendment) Bill 2017.

BANKING (AMENDMENT) BILL 2017

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Bill.

CLERK (in Cantonese): Clauses 1 to 30.

CHAIRMAN (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1 to 30 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)
CHAIRMAN (in Cantonese): Those against please raise their hands.

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CHAIRMAN (in Cantonese): All the proceedings on the Banking (Amendment) Bill 2017 have been concluded in committee of the whole Council. Council now resume.

Council then resumed.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I now report to the Council: That the Banking (Amendment) Bill 2017 has been passed by committee of the whole Council without amendment. I move the motion that "This Council adopts the report."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Financial Services and the Treasury be passed.

In accordance with Rule 59(2) of the Rules of Procedure, the motion shall be voted on forthwith without amendment or debate.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)
PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

Third Reading of Government Bill


BANKING (AMENDMENT) BILL 2017

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I move that the Banking (Amendment) Bill 2017 be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Banking (Amendment) Bill 2017 be read the Third time and do pass.

Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)
PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.


SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the Council until 9:00 am tomorrow.

*Suspended accordingly at 7:35 pm.*
Annex I

Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017

Committee Stage

Amendments moved by the Secretary for Financial Services and the Treasury

<table>
<thead>
<tr>
<th>Clause</th>
<th>Amendment Proposed</th>
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</table>
| 7      | In the proposed section 5A, by adding—  
“(5A) To avoid doubt, for the purposes of this section, it is immaterial whether the subject matter of a transaction referred to in subsection (3), (4) or (5) is in Hong Kong or elsewhere.”. |
| 8      | By deleting subclause (8) and substituting—  
“(8) After section 7(5)—  
Add  
“(5A) To avoid doubt, in relation to a legal professional, the power to publish guidelines under this section does not affect the sole discretion of the Law Society to determine the content of Practice Direction P as defined by section 9A(3) of the relevant Ordinance in relation to the Law Society.”.”. |
| 8      | By deleting subclause (12). |
| 9(10)  | In the proposed paragraph (i), in the English text, by deleting “TSCP” and substituting “TCSP”. |
| 18     | In the proposed section 53ZK(1)(d)(viii), by deleting “or”. |
| 18     | In the proposed section 53ZK(1)(d)(ix), by deleting “Society;” and substituting “Society, or”. |
| 18     | In the proposed section 53ZK(1)(d), by adding—  
“(x) the Estate Agents Authority;”.”. |
By adding—

“(91A) Schedule 2, section 18(1)—

Repeal

“institution may”

Substitute

“institution or a DNFBP may”.

(91B) Schedule 2, section 18(1)(a)—

Repeal

“institution’s”

Substitute

“institution’s or the DNFBP’s”.

(91C) Schedule 2, section 18(1)(b)—

Repeal

“institution”

Substitute

“institution or the DNFBP”.

(91D) Schedule 2, section 18(2)—

Repeal

“institution”

Substitute

“institution or a DNFBP”.

(91E) Schedule 2, section 18(3)(a)—

Repeal

“institution”

Substitute

“institution or the DNFBP”.”.

By deleting subclause (92) and substituting—

“(92) Schedule 2, section 18(3)(a)—

Repeal subparagraphs (i), (ii), (iii) and (iv)

Substitute

“(i) an accounting professional;
(ii) an estate agent;
(iii) a legal professional;
(iv) a TCSP licensee;”. “

26 By deleting subclause (93).

26 By deleting subclause (94) and substituting—
“(94) Schedule 2, section 18(3)(b)—

Repeal
“; or”

Substitute a semicolon.”.

26 By adding—
“(94A) Schedule 2, section 18(3)(c)—

Repeal
“business in an equivalent jurisdiction,”

Substitute
“business in an equivalent jurisdiction, or a person who carries on in an equivalent jurisdiction a business similar to that carried on by an estate agent,””. “

26 By deleting subclause (96) and substituting—
“(96) Schedule 2, section 18(3)(c)(iii)—

Repeal
“authorities.”

Substitute
“authorities or the regulatory bodies (as may be applicable); or”. “

26(97) In the proposed section 18(3)(d), by deleting “an institution” and substituting “in the case of a financial institution, an institution”. 
26 By adding—

“(98A) Schedule 2, section 18(4)—

Repeal

“A financial institution”

Substitute

“A financial institution or a DNFBP”.

(98B) Schedule 2, section 18(4)(a)—

Repeal

“institution”

Substitute

“institution or the DNFBP”.”.

26 By adding—

“(99A) Schedule 2, section 18(4)(b)—

Repeal

“institution” (wherever appearing)

Substitute

“institution or the DNFBP”.”.

26(101) In the proposed section 18(4)(c), by deleting “if” and substituting “in the case of a financial institution, if”.

26 By adding—

“(102A) Schedule 2, section 18(6)—

Repeal

“institution” (wherever appearing)

Substitute

“institution or a DNFBP”.

(102B) Schedule 2, section 18(6)—

Repeal

“its”

Substitute

“an”.”.
26(103) In the proposed section 18(7), by deleting the definition of *intermediary financial institution* and substituting—

“*intermediary financial institution* (中介人金融機構) means a financial institution mentioned in subsection (3)(b);”.

26 By adding—

“(110A) Schedule 2, section 20(2)—

Repeal

“6”

Substitute

“at least 5”.

(110B) Schedule 2, section 20(3)—

Repeal

“6”

Substitute

“at least 5”.

34(1) By deleting the proposed section 9A(1AA) and substituting—

“(1AA) Without limiting subsection (1), where the Council considers that the conduct—

(a) involves an alleged breach referred to in subsection 9A(1AA)(a) or (b); and

(b) is conduct that should be inquired into or investigated, the Council must submit the matter to the Tribunal Convenor for the purpose of inquiring into or investigating the conduct.”.

34(1) In the proposed section 9A(1AAB), by deleting “(1AA)” and substituting “(1AA)(a)”.

34(1) By deleting the proposed section 9A(1AAC) and substituting—

“(1AAC) The Council must take into account Practice Direction P when considering whether conduct falls within subsection (1AA)(a) or (b).”.
34(2) In the proposed section 9A(3), by adding in alphabetical order to the proposed definitions—

“Practice Direction P (執業指引 P) means any practice direction issued by the Society for providing guidance in relation to the operation of AML/CTF requirements;”.

Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017

Committee Stage

Amendment moved by the Honourable James TO Kun-sun

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<tr>
<th>Clause</th>
<th>Amendment Proposed</th>
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<tr>
<td>18</td>
<td>By deleting the proposed section 53ZO and substituting –</td>
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“53ZO. Time limit for prosecution

Despite section 26 of the Magistrates Ordinance (Cap. 227), proceedings in respect of an offence under this Part, other than an indictable offence, may be brought within 3 years after the commission of the offence or within 1 year after the offence is discovered by, or comes to the notice of, the Registrar, whichever period expires first.”.
Annex II

Inland Revenue (Amendment) (No. 5) Bill 2017

Committee Stage

Amendments moved by the Secretary for Financial Services and the Treasury

<table>
<thead>
<tr>
<th>Clause</th>
<th>Amendment Proposed</th>
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<tbody>
<tr>
<td>1</td>
<td>In the heading, by adding “and commencement” after “Short title”.</td>
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<tr>
<td>1</td>
<td>By renumbering the clause as clause 1(1).</td>
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<tr>
<td>1</td>
<td>By adding—</td>
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<td></td>
<td>“(2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.</td>
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<td></td>
<td>(3) Sections 5, 6, 7, 8, 9, 10 and 11 come into operation on 1 January 2019.”</td>
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