

**立法會**  
**Legislative Council**

LC Paper No. CB(1)883/17-18  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/FA/1

**Panel on Financial Affairs**

**Minutes of meeting held on**  
**Monday, 5 February 2018, at 9:00 am**  
**in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon Kenneth LEUNG (Chairman)  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
(Deputy Chairman)  
Hon James TO Kun-sun  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon CHAN Kin-por, GBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon WU Chi-wai, MH  
Hon Charles Peter MOK, JP  
Hon Dennis KWOK Wing-hang  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Alvin YEUNG  
Hon CHU Hoi-dick  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon CHAN Chun-ying  
Hon CHEUNG Kwok-kwan, JP

**Member attending** : Hon Alice MAK Mei-kuen, BBS, JP

**Members absent** : Dr Hon Junius HO Kwan-yiu, JP  
Hon LUK Chung-hung

**Public officers attending** : Agenda Item IV

Mr Norman T. L. CHAN, GBS, JP  
Chief Executive  
Hong Kong Monetary Authority

Mr Eddie YUE, JP  
Deputy Chief Executive  
Hong Kong Monetary Authority

Mr Arthur YUEN, JP  
Deputy Chief Executive  
Hong Kong Monetary Authority

Mr Howard LEE, JP  
Deputy Chief Executive  
Hong Kong Monetary Authority

Agenda Item V

Mr Chris SUN, JP  
Deputy Secretary for Financial Services and the  
Treasury (Financial Services)1

Agenda Item VI

Ms Winnie NG Ching-ching, JP  
Deputy Secretary for Financial Services and the  
Treasury (Financial Services)

Mr TE Chi-wang  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services) 6

Ms Ada CHUNG Lai-ling, JP  
Registrar of Companies

**Attendance by  
Invitation** : Agenda Item V

Mr Carlson TONG, SBS, JP  
Chairman  
Securities and Futures Commission

Mr Ashley ALDER, JP  
Chief Executive Officer  
Securities and Futures Commission

Mr Andrew WAN  
Chief Financial Officer and Senior Director of Corporate  
Affairs  
Securities and Futures Commission

Mr Paul YEUNG  
Commission Secretary  
Securities and Futures Commission

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

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

Ms Sharon CHAN  
Legislative Assistant (1)4

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

(LC Paper No. CB(1)536/17-18 — Minutes of the meeting on  
6 November 2017)

The minutes of the meeting held on 6 November 2017 were confirmed.

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**II Information papers issued since the regular meeting on 5 January 2018**

(LC Paper No. CB(1)475/17-18(01) — Administration's paper on "Exemption from Profits Tax (Non-Renminbi Sovereign Bonds) Order"

LC Paper No. CB(1)525/17-18(01) — Administration's paper on "Government's Initiatives for Promoting and Facilitating Development of the Financial Services Sector"

LC Paper No. CB(1)547/17-18(01) — Third quarterly report of 2017 on "Employees Compensation Insurance Reinsurance Coverage for Terrorism")

2. Members noted the information papers issued since the regular meeting held on 5 January 2018.

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

(LC Paper No. CB(1)530/17-18(01) — List of outstanding items for discussion)

3. Members agreed to discuss the following items proposed by the Administration at the regular meeting scheduled for 5 March 2018, from 10:00 am to 12:45 pm:

- (a) Application of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting in Hong Kong;
- (b) Budget of the Insurance Authority for the financial year 2018-2019;
- (c) Policy Holders' Protection Scheme Bill; and

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- (d) Retention of two supernumerary directorate posts and creation of a supernumerary directorate post in the Financial Services and the Treasury Bureau.

*(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, the item on "Construction of the Joint-user Government Office Building in Cheung Sha Wan" was added to the agenda of the meeting on 5 March 2018. Members were informed of the matter vide LC Paper No. CB(1)579/17-18 on 7 February 2018.)*

**IV Briefing on the work of Hong Kong Monetary Authority**

(LC Paper No. CB(1)530/17-18(02) — Paper provided by the Hong Kong Monetary Authority)

Briefing by the Hong Kong Monetary Authority

4. At the invitation of the Chairman, the Chief Executive, Hong Kong Monetary Authority ("CE/HKMA"), the Deputy Chief Executive (Banking), Hong Kong Monetary Authority ("DCE(B)/HKMA"), the Deputy Chief Executive (Monetary), Hong Kong Monetary Authority ("DCE(M)/HKMA") and the Deputy Chief Executive (Development), Hong Kong Monetary Authority updated members on the work of the Hong Kong Monetary Authority ("HKMA") through a powerpoint presentation. Topics included assessment of risks to Hong Kong's financial stability, banking supervision, financial infrastructure, development of the financial market, and investment performance of the Exchange Fund ("EF").

*(Post-meeting note: The powerpoint presentation materials (LC Paper No. CB(1)563/17-18(01)) were issued to Members vide Lotus Notes e-mail on 5 February 2018.)*

Discussion

*Macroeconomic conditions and the impacts of interest rate normalization*

5. WONG Ting-kwong sought HKMA's assessment of the impacts of the weakening of the United States dollar ("USD") in recent months on the Hong Kong economy given that the Hong Kong dollar ("HKD") was pegged to USD. Mr WU Chi-wai enquired about the reasons for the weakening of USD despite the onset of US interest rate hikes since 2017.

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6. CE/HKMA advised that the USD weakened last year although the US Federal Reserve ("Fed") raised interest rates three times and began to reduce its balance sheet during the year. It was partly because the USD upcycle already commenced in 2014-2015 during which the emerging market economies ("EMEs") were under pressure and experienced capital outflows. This was until last year when EMEs saw improvements in economic fundamentals and increase in capital inflows. This helped explain why the US interest rate normalisation did not result in a strengthening of USD last year. Looking ahead, the continued normalization of the US monetary policy, coupled with the implementation of the US tax reforms which might encourage repatriation of overseas earnings by US corporates, might provide some support to USD in 2018 although the outlook of USD remained uncertain.

7. Mr WU Chi-wai expressed concern about possible drastic increases in the interest rate in Hong Kong owing to capital outflows from Hong Kong to the US due to the implementation of tax reforms in the US. Mr CHAN Kin-por echoed Mr WU's concern taking into account the significant decline in the aggregate balance of HKD from mid-2015 to 2017.

8. CE/HKMA advised that there remained ample liquidity in the banking system of Hong Kong. While HKD interest rates would inevitably increase in the course of US interest rate normalization, it was envisaged that the pace would be gradual. He explained that the large amount of capital inflows to Hong Kong in the past few years were being held by EF as USD reserves. Should there be capital outflow, the Monetary Base would contract correspondingly, creating an environment conducive to the normalization of the HKD interest rates. With the Monetary Base currently standing at about HK\$1.7 trillion, providing a strong buffer against capital outflow, he believed that the risk of a drastic increase in local interest rates was not high. CE/HKMA also advised that while the aggregate balance had declined since 2015, one should also look at the EF Bills and Notes which were one of the components of the Monetary Base and had increased since then.

*Banking supervision and stability*

9. Mr CHAN Chun-ying noted that the total household debt stood at some 69.1% of Hong Kong's gross domestic products ("GDP") in the third quarter of 2017. He sought details of household debts classified as "loans for other private purposes", and enquired about HKMA's measures to contain the growth of such debts.

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10. CE/HKMA advised that HKMA had been monitoring the trend of the household debt to GDP ratio. He said that about 60-70% of household debts were mortgage loans, the growth of which remained moderate. Of the remaining household debts, about 20% were credit card loans while the rest were "loans for other private purposes". Within these "loans for other private purposes", about 70% were secured loans made by private banking customers using their personal assets as collateral for investment purposes. The growth rate of such loans was commensurate with that of the asset under management of the private banking industry, which was higher than the GDP growth rate. While the relevant risk was considered manageable for banks, individual borrowers needed to understand the risks associated with the use of leverage in investments. DCE(B)/HKMA added that the remaining 30% of the "loans for other private purposes" were personal loans without collateral. HKMA had strengthened its supervisory measures (like introducing caps on the debt servicing ratio and payment term) to mitigate possible risks associated with such loans.

11. Mr Dennis KWOK enquired whether HKMA had required banks to monitor transactions that might involve human trafficking. He expressed concern that there might be loophole in the existing legislation in combating such activities, and enquired whether Hong Kong would follow other jurisdictions to impose statutory requirement on banks to monitor transactions/accounts that might involve human trafficking.

12. DCE(B)/HKMA advised that a number of legislation including the Organized and Serious Crimes Ordinance (Cap. 455) regulated money laundering activities arising from criminal acts. Banks were required to report suspicious transactions (including transactions that might involve human trafficking) and take appropriate customer due diligence ("CDD") measures on such transactions. He added that Hong Kong's anti-money laundering and counter-terrorist financing regime was in line with the international standards and HKMA had been keeping abreast of the latest discussions of the Financial Action Task Force.

*Regulation of cryptocurrencies*

13. Mr Alvin YEUNG expressed grave concern about the great fluctuations in the prices of cryptocurrencies (commonly known as digital currencies or virtual currencies) in recent months. He enquired whether HKMA had information on such investments by local retail investors, and whether the Government would enhance the regulation of cryptocurrencies given increasing prevalence of the investment and the high risk involved including making reference to the practice of the Republic of Korea to restrict cryptocurrency transactions by real-name bank accounts only.

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14. Mr Dennis KWOK stressed the need for HKMA to step up regulation on cryptocurrencies, which might be used for money laundering. He pointed out that the recent hacking incident of the Coincheck Exchange in Japan and the concern expressed by world leaders during the World Economic Forum Annual Meeting 2018 had highlighted the need to control the risk associated with the development of cryptocurrencies on financial stability.

15. CE/HKMA advised that HKMA issued a guideline in 2014 reminding banks of the higher inherent money laundering and terrorist financing ("ML/TF") risks associated with virtual commodities, particularly given that they were transacted or held on the basis of anonymity. CE/HKMA added that similar to other major international financial centres, crypto assets, regarded as virtual commodities, were not subject to the regulation of HKMA. The Financial Services and the Treasury Bureau was considering appropriate policy measures from investor protection angle. DCE(B)/HKMA supplemented that the Investor Education Centre had launched a number of initiatives in collaboration with HKMA and the Securities and Futures Commission ("SFC") to enhance investor education on the risks associated with crypto assets. Hong Kong, like the Republic of Korea, was concerned about the high ML/TF risks associated with transactions involving crypto assets given their anonymous nature. The local banking sector had been adopting a prudent and conservative approach when dealing with crypto asset service providers.

16. The Chairman was concerned whether a business entity operating a cryptocurrency exchange platform would encounter difficulty in opening a bank account in Hong Kong due to the difficulty for the bank concerned to conduct CDD measures on the entity. DCE(B)/HKMA acknowledged that it would be difficult for banks to conduct proper CDD on such entity at the moment given the anonymous nature of crypto asset transactions.

*Development of the financial services industry*

17. Mr Jeffrey LAM welcomed the launch of the Green Finance Certification Scheme by the Hong Kong Quality Assurance Agency ("HKQAA") which he considered could help Hong Kong tap opportunities arising from the Belt and Road Initiative. He and the Chairman sought details of the existing regulation on green finance products, including whether the Government had developed clear standards for the certification of products.

18. CE/HKMA advised that currently green finance standards were set by the governments/regulatory bodies of individual jurisdictions or private organizations. The International Capital Market Association ("ICMA") was a prominent example of the latter which set green finance principles for market



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players. Its annual conference was an important occasion for the relevant parties worldwide to discuss latest market and regulatory developments relating to green finance. HKMA would keep close contact with ICMA in developing green finance in Hong Kong. DCE(M)/HKMA added that the international community in general adopted the green finance standards set by ICMA. Various organizations in individual jurisdictions (including HKQAA in Hong Kong) had been developing green finance certification schemes by making reference to ICMA's standards.

19. The Chairman declared that he had been the client of a virtual bank in the United Kingdom. Noting that HKMA would review the Guideline on Authorization of Virtual Banks ("the Guidelines") to facilitate the introduction of virtual banking in Hong Kong, he enquired whether the operation of virtual banks would be restricted to existing authorized institutions ("AIs") in Hong Kong or their subsidiaries.

20. CE/HKMA pointed out that with rapid technological advancement in recent years, overseas experiences had proven that virtual banking was commercially and technically viable. Introduction of virtual banking would also help promote financial innovation, new customer experience and financial inclusion in Hong Kong. As such, HKMA had been reviewing the Guidelines to facilitate the introduction of virtual banking in Hong Kong, and planned to conduct a consultation shortly with a view to issuing the first batch of virtual banking licences by the end of 2018. CE/HKMA added that both AIs and technology companies were welcome to apply for virtual banking licences. DCE(B)/HKMA added that following the issuance of the Guidelines in 2000, an AI had once attempted to set up a virtual bank but did not succeed in the end. The technological environment nowadays was more conducive to the introduction of virtual banking as compared with the past.

*The property market*

21. Noting that both the total number of loans drawdown and aggregate loan amount under the Hong Kong Mortgage Corporation's ("HKMC") Mortgage Insurance Programme ("MIP") had increased in 2017, Mr Holden CHOW enquired whether HKMA would introduce measures to meet the great demand for top-up loans given that a certain number of the applications under MIP might involve top-up loans. Mr WU Chi-wai enquired about HKMA's position on providing higher loan-to-value ("LTV") ratio mortgage loans under MIP.

22. CE/HKMA clarified that MIP was a risk-based insurance product based on commercial principles. Under MIP, eligible borrowers could obtain higher LTV ratio mortgage loans, without involving the making of top-up loans.

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CE/HKMA added that MIP could be refined in light of changes in market conditions and having regard to risk-based principles. However, the possible market responses and the impacts on the property market arising from any such refinements should be assessed very carefully.

23. Mr Jeffrey LAM declared that he was a director of HKMC and owned a number of commercial properties in Hong Kong. He enquired whether HKMA would launch measures to help genuine buyers to purchase residential properties including offering higher LTV ratio mortgage loans under MIP. He also expressed concern whether the counter-cyclical macroprudential measures introduced by HKMA had contributed partly to the surging property prices. Mr WONG Ting-kwong also expressed concern about the soaring property prices despite implementation of the various demand-side management measures and counter-cyclical macroprudential measures by the Government and HKMA respectively. Mr CHAN Chun-ying enquired whether HKMA would implement further counter-cyclical macroprudential measures in view of the continued surge in property prices in recent months.

24. Mr WU Chi-wai cautioned about the high level of total household debt which stood at some 69.1% of Hong Kong's GDP in the third quarter of 2017, and sought HKMA's views as how it could strike a balance between supporting the Government's policy on meeting the public demand for home purchase on the one hand and strengthening the resilience of the banking system on the other. Mr WU further enquired about HKMA's position on relaxing the existing LTV ratio caps for residential mortgages.

25. CE/HKMA stressed that there was no evidence supporting the claim that local property prices would have increased at a slower pace had the Government and HKMA not implemented the demand-side management measures and counter-cyclical macroprudential measures respectively. He advised that one of the key responsibilities of HKMA was to maintain banking stability in Hong Kong. The launch of eight rounds of the counter-cyclical macroprudential measures over the years had greatly enhanced banks' resilience to a property market downturn. HKMA would continue to closely monitor market conditions and implement appropriate macroprudential measures according to cyclical changes to ensure banking stability. Under the current market conditions, HKMA did not see any reasons to relax its counter-cyclical macroprudential measures. CE/HKMA emphasized that mortgage was not the only factor affecting property prices. Past experience suggested that the market tended to disregard risk factors or warning signals in a property upcycle. He cautioned that it was not reasonable to expect that the HKD interest rates would stay low forever. When taking out a loan, members of the public should carefully assess their affordability and manage risks prudently.

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*The Exchange Fund*

26. Mr Holden CHOW enquired why the return rate of EF had lagged behind growth in the global equity market and increases in the Hang Seng Index. CE/HKMA responded that EF was not an equity fund. The statutory purposes of EF were to maintain Hong Kong's monetary and financial stability. As such, the primary investment objectives of EF were to preserve capital and maintain sufficient liquidity. He added that the huge amount of capital inflows to Hong Kong since 2009 were all invested in high quality, highly liquid USD-denominated debt securities under EF's Backing Portfolio ("BP"). BP's return would inevitably be lower than that of the equity market under the current buoyant market conditions. Nevertheless, for EF as a whole, the balanced portfolio enabled it to achieve a stable and reasonable return that helped preserve EF's purchasing power in the medium to long term.

*The Life Annuity Scheme administered by the Hong Kong Mortgage Corporation'*

27. Mr CHAN Kin-por enquired if HKMA would consider increasing the proposed issuance amount and the cap of premium amount (which stood at HK\$ 10 billion and HK\$ one million respectively) for the Life Annuity Scheme ("LAS") to be launched by HKMC given the windfall investment return of EF in 2017.

28. CE/HKMA responded that the proposed issuance amount of HK\$10 billion and the premium cap of HK\$ one million per applicant for the first batch of LAS were worked out based on commercial principles and risk management considerations. Market feedback on LAS had been positive. Should there be overwhelming demand for the first batch of LAS, HKMC would consider the feasibility of increasing the issuance amount without compromising the risk management considerations.

**V Budget of the Securities and Futures Commission for the financial year 2018-2019**

(LC Paper No. CB(1)530/17-18(03) — Administration's paper on "Securities and Futures Commission Budget for the Financial Year 2018-19"

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LC Paper No. CB(1)530/17-18(04) — Background brief on the annual budgets of the Securities and Futures Commission prepared by the Legislative Council Secretariat)

Briefing by the Administration

29. At the invitation of the Chairman, the Chairman of the Securities and Futures Commission ("C/SFC") briefed members on the proposed budget of SFC for 2018-2019. He pointed out that for 2018-2019, SFC had projected a total income of \$1,871 million and a total expenditure of \$1,999 million representing an increase of 1.9% and 6.3% respectively over the forecast for 2017-2018, and resulting in a budgeted deficit of \$128 million. The increase in expenditure was mainly attributed to the increase in staff cost arising from annual pay adjustment and 21 new headcounts. C/SFC added that SFC's main source of income came from transaction levies, which was tied with market turnover. Since the forecast deficit was based on the market turnover in November 2017 when the budget was prepared, with the recent extraordinarily high market turnover and the benefit of hindsight, SFC would likely have a smaller deficit or might even have a small surplus. On the initiatives in 2018-2019, SFC would continue to maintain the integrity of the Hong Kong markets, and consolidate past efforts for Hong Kong to further develop into an asset management centre, a risk management centre and a quality listing platform for capital raising. Furthermore, SFC was working closely with the Hong Kong Exchange and Clearing Company Limited ("HKEX") on the consultation on weighted voting righted ("WVR"), pre-revenue bio-tech companies and the secondary listing of Mainland businesses listed in qualified overseas exchanges.

*(Post-meeting note: The opening statement made by C/SFC was issued to members vide LC Paper No. CB(1)578/17-18(01) on 7 February 2018.)*

Discussion

*Manpower of the Securities and Futures Commission*

30. Noting that four posts in the Centralised Services Division would be upgraded in 2018-2019, Mr CHAN Chun-ying enquired about the reasons and why the Division had a relatively higher rate in upgrading of posts when compared with other divisions.

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31. The Chief Executive Officer, SFC ("CEO/SFC") explained that to take forward the initiative relating to enhancement in information technology services, SFC would require more headcount with the necessary expertise. He pointed out that SFC had adopted a new approach to strengthen its capability in data analytics work with a view to enhancing its ability in monitoring market operations and misconducts. This would be a cross-divisional project.

32. Mr CHAN Kin-por expressed concern about the continuous expansion in SFC's manpower in recent years and noted that the projected headcount would reach 965 in 2018-2019. He urged that SFC should consider increase in headcount carefully to ensure prudent use of public resources.

33. C/SFC responded that the Budget Committee and Remuneration Committee, which consisted of independent board members of SFC, would examine the proposed increases in manpower and level of remuneration in a prudent manner. In coping with increase in workload, SFC would first try to meet the shortfall in manpower through internal redeployment before creating new posts as a last resort. The projected 2.2% increase in headcount in the proposed budget of 2018-2019 was the lowest in recent years. CEO/SFC supplemented that since the global financial crisis, SFC's manpower was considered undersized and hence had constrained its operational capabilities. As a result, the subsequent considerable growth in SFC's headcounts was a deliberate move. Since 2016, it was felt that the need for further growth had to be slowed down and the annual increase in headcount was thus kept under 3% in the past two years. Headcount increase was expected to level off in the next few years.

34. In response to the Chairman's enquiry about the annual pay adjustment mechanism for SFC's staff, C/SFC said that the proposed 2018-2019 budget had included provision of an average 3.8% pay increase. The proposed increase was based on recommendation of the independent consultant and surveys on pay trends of comparable positions in the market.

*Operating deficits*

35. Noting that SFC had projected a deficit of \$127.61 million in 2018-19, Ir Dr LO Wai-kwok asked how SFC would meet the deficit. He opined that SFC should strive to achieve fiscal balance and avoid incurring deficits in the long run.

36. C/SFC said that SFC's substantial reserves was built up in 2007 with the then extraordinary market situations, which had provided room for the reduction of the levy rate in four occasions from 0.005% to the current rate of 0.0027% in the past ten years. In recent years, the income from levy could no longer meet SFC's operational needs, and SFC had to rely on its reserves to meet the funding

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gaps while maintaining the levy rate. As the market turnover was the key driver of SFC's income, SFC could only achieve a balanced budget in 2018-2019 if the daily average market turnover reached around \$120 billion.

*Listing regime for companies from emerging and innovative sectors*

37. With reference to HKEX's proposal to expand the existing listing regime by allowing companies with WVR structure from emerging and innovative sectors to be listed in Hong Kong, Mr Holden CHOW asked whether SFC would deploy more manpower to handle issues arising from the new regime, in particular to ensure sufficient protection for investors when permitting listing of companies with the WVR structure. Mr CHOW also enquired if SFC would support requiring a "sunset clause" for the WVR holders.

38. C/SFC said that issues relating to the new listing regime for emerging and innovative companies would be handled by the Corporate Finance Division, and four new posts would be created in the Division in 2018-2019 in anticipation of increase in workload. As regards the new listing regime, C/SFC said that HKEX would conduct a second phase consultation very soon, which would include proposed safeguards for protecting investors, which might include certain forms of "sunset clause". He assured members that SFC attached great importance to ensure protection for investors in companies with WVR structures. SFC would study HKEX's consultation paper carefully.

*Regulatory work*

39. Mr Dennis KWOK expressed concern about the financial risks arising from cryptocurrencies in Hong Kong. He enquired about SFC's work in stepping up its regulation on cryptocurrencies. He also urged SFC to enhance its enforcement actions against malpractices of listed companies by deploying more resources to its investigation.

40. As regards the financial risks arising from cryptocurrencies, CEO/SFC said that governmental and regulatory bodies worldwide including SFC were exploring measures to enhance protection for investors as existing rules were limited in regulating such activities. Under the existing regulatory regime, a cryptocurrency transaction would fall under SFC's regulatory purview only if it involved securities or collective investment schemes. However, according to SFC's observation, many cryptocurrency transactions nowadays had been structured to attempt to circumvent SFC's regulatory purview. He remarked that the phenomenon was not unique for Hong Kong. SFC would study cryptocurrency activities and review its powers in a holistic manner and also provide targeted education programmes to investors. As regards SFC's

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investigation work, CEO/SFC said that SFC adopted a risk-based approach in taking enforcement actions under which more resources would be allocated to regulate market activities with higher risks to investors. SFC's investigation work had been facing more challenges in view of the increasing complexity in obtaining evidence in recent years. Six new posts would be created in the Enforcement Division in the 2018-2019 financial year to cope with the workload.

41. Mr James TO noted that investors who suffered losses from investment in collective investment schemes involving overseas properties had lodged complaints to SFC. However, the complainants were dissatisfied with SFC's follow-up actions which had not provided responses nor disclosed the results of investigation. He urged SFC to give an account on the progress of its investigation on these cases.

42. CEO/SFC said that SFC's regulatory handle in its investigations of alleged illegal fund-raising on investment in overseas properties depended on whether such activities were related to unauthorized collective investment schemes. Furthermore, given that the companies involved were often overseas companies, this had limited SFC's ability in obtaining redress for Hong Kong investors who had suffered losses. As regards prosecution, CEO/SFC pointed out that SFC had brought prosecution on one case of unlicensed dealings involving collective investment schemes in the past. However, the defendants had been acquitted of the charges. The case was now under appeal. On the preventive front, SFC had been conducting surveillance on advertisements of overseas properties to identify suspected collective investment schemes. SFC had also liaised with the Estate Agents Authority and conducted investor education work on unauthorized collective investment schemes involving real estate.

43. Mr Christopher CHEUNG said that brokerage firms in Hong Kong had been looking forward to the setting up of an online system which allowed investors from the Mainland to open securities accounts in Hong Kong. He pointed out that a streamlined process of identity verification and secured trading platform would be a key to success of the new account opening system. He enquired about SFC's work in following up the matter with the relevant Mainland authorities.

44. CEO/SFC said that in online account opening, the key would be ensuring that the process complied with the requirements of the relevant laws and regulations of the Mainland and that there would be a sufficiently robust client identity verification process. SFC's codes and circulars had clarified that client identity verification could be assisted by a third party such as certification agents or via signing off by professionals. SFC's Intermediaries Division had been in discussion with the Hong Kong Association of Online Brokers in exploring how

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technological advances could facilitate the development of a new non face-to-face system in opening securities accounts.

*Office Premises*

45. Pointing out that there had been substantial increase in the prices of office premises at core business districts in recent years, Mr CHAN Chun-ying was concerned that the \$3,000 million ring-fenced from SFC's reserves for acquisition of office premises would be inadequate. He asked if SFC would consider increasing the budget for the purchase of its office accommodation.

46. C/SFC responded that it was estimated that SFC would require an office premises of about 180 000 square feet, which would cost about \$7,000 – \$8,000 million based on current market price. Although SFC could borrow the shortfall of \$4,000-5,000 million, it would be a huge financial burden for SFC. The current lease of SFC office would expire in 2022 (with the option to terminate the lease earlier in 2020). SFC would conduct a detailed assessment of the accommodation options. He added that SFC was open to all cost effective accommodation options including relocating the office premises to areas outside the core Central district.

**VI Review of the effectiveness of the new regulatory measures to tackle money lending-related malpractices**

(LC Paper No. CB(1)113/17-18(04) — Letter dated 17 October 2017 from Hon CHEUNG Kwok-kwan expressing concern about the adequacy of the existing legislation in regulating the improper use of personal data in making loan applications (Chinese version only)

LC Paper No. CB(1)530/17-18(05) — Administration's paper on "Review of the effectiveness of the new regulatory measures to tackle money lending-related malpractices"



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LC Paper No. CB(1)530/17-18(06) — Updated background brief on regulatory arrangements to tackle malpractices by financial intermediaries for money lending prepared by the Legislative Council Secretariat)

Briefing by the Administration

47. At the invitation of the Chairman, Deputy Secretary for Financial Services and the Treasury (Financial Services) ("DSFS") briefed members on the outcome of the Government's review on the four-pronged approach to tackle the malpractices by financial intermediaries in relation to money lending ("intermediaries") implemented since 2016, namely (a) imposition of more stringent licensing conditions on money lenders with effect from 1 December 2016, (b) enhanced enforcement by the Police, (c) enhanced public education and publicity, and (d) enhanced advisory services to the public. She added that the four-pronged approach had generally been effective in addressing money lending-related malpractices. Yet, in view of the changing *modus operandi* of the unscrupulous intermediaries, the Government was exploring further enhancement measures to address money lending-related malpractices. She then invited members to watch two public education video clips produced under a publicity campaign in collaboration with the Consumer Council.

Discussion

*Regulation of money lenders*

48. Ms Alice MAK said that the four-pronged approach, in particular the enhanced enforcement by the Police, was generally effective in addressing money lending-related malpractices. She remarked that the number of complaints of malpractices by intermediaries received by her office dropped significantly to some 20 in 2017 compared to 30 to 40 per month before the implementation of the new regulatory measures. However, complaints received by her office in 2017 revealed that more than 50 new intermediaries were identified, and some money lenders had associated with law firms and intermediaries to provide one-stop service to prospective borrowers. Moreover, conviction cases in November 2017 revealed that unscrupulous intermediaries might conduct money laundering in providing money lending services. To address the problem of unscrupulous money lenders, Ms MAK urged the Administration to enhance the licensing requirements on money lenders, such as imposing a minimum capital requirement on money lenders and more stringent conditions on money lenders with

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non-compliance records when considering their renewal of licences, and issuing a Code of Practice to enhance service quality of money lenders including in handling personal data of borrowers and prospective borrowers.

49. DSFS advised that the Police had carried out a number of targeted enforcement actions against unscrupulous intermediaries in the past few years. There was a conviction case in November 2017 where nine persons charged of conspiracy to defraud and to launder money were sentenced to imprisonment of four to six years. Three other cases were scheduled for trial in March 2018. She added that currently, the Money Lenders Ordinance (Cap. 163) ("MLO") prohibited money lender, its agents, employees, or any persons acting for the money lender from charging any fee on a borrower other than the interest charged on the loan. Having regard to the experience of the Police in investigating cases involving malpractices by intermediaries, the Government considered in 2016 that it was of utmost importance to tackle the situation whereby unscrupulous intermediaries concealed their relationship with money lenders in order to circumvent the aforementioned statutory prohibition on separate fee charging. The Government would continue to adopt the four-pronged approach in tackling the malpractices by intermediaries. As regards the suggestion of imposing a minimum capital requirement on money lenders, DSFS explained that capital requirement was a means of prudential supervision for ensuring the financial stability of licensees. Unlike financial institutions such as banks and insurance companies, money lenders did not accept or handle deposits and premium payments from the public. After detailed and careful consideration, the Government considered there was insufficient justification to impose such requirement on money lenders.

50. Mr Holden CHOW noted that some unscrupulous intermediaries had changed their *modus operandi*. He enquired about the Administration's measures to address more prevalent malpractices of the intermediaries. He also suggested that the Administration should compile information and statistics on fraudulent cases using various deceiving tactics to facilitate the formulation of targeted measures to tackle the issues.

51. DSFS said that the Police had been sharing the intelligence and observations on the *modus operandi* of the unscrupulous intermediaries with the Company Registry ("CR") regularly. It was noted that instead of charging the borrower a fee for arranging the loan, some fraudsters would make up different pretexts to deceive borrowers to pass them the borrowed money, and then abscond. For example, some borrowers were lured to open investment accounts after obtaining a loan. Other pretexts included improvement of credit records which allegedly could enable the borrowers to obtain another loan at a lower interest rate in the future. The Government would incorporate new messages in

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the upcoming public education activities to raise public awareness of different deceiving tactics used by fraudsters.

52. The Chairman sought information on the number of licensed money lenders in the past few years. Registrar of Companies advised that the number of licensed money lenders was 1 309, 1 605 and 1 848 as at end 2014, 2015 and 2016 respectively, representing an increase of 23% and 15% in 2015 and 2016 respectively. The growth had been moderated since the implementation of the four-pronged approach. As at 31 December 2017, the number of licensed money lenders was 1 994 (i.e. an increase of 8% over the number in 2016).

53. Mrs Regina IP pointed out the increasing prevalence of entities using financial technologies ("Fintech") to provide money lending services including the operation of online lending platform by "WeLab" and services provided to local people by overseas entities. She sought information on the Administration's measures to regulate such money lending activities, in particular if the activities were subject to the same licensing and regulatory requirements as traditional money lenders.

54. DSFS responded that money lenders running business using Fintech were subject to the same licensing and regulatory requirements as traditional money lenders. The Government would monitor the development of Fintech as well as its application in the money lending industry so as to ensure a level-playing field under the regulatory regime.

55. Mr SHIU Ka-fai enquired about the enforcement actions taken against unscrupulous intermediaries who impersonated as staff members or representatives of a licensed bank to induce prospective borrowers to engage them for arranging loans. Given that staff members or representatives of a licensed bank could promote and arrange loans to borrowers, Mr SHIU urged the Police to enhance its enforcement actions (e.g. taking decoy operations) and the Administration to strengthen publicity to raise public awareness of the aforementioned malpractices by unscrupulous intermediaries.

56. DSFS said that HKMA was aware of the situation and had introduced measures to help the general public in identifying possible scams. Such measures included requiring (a) all banks to step up efforts in drawing their customers' attention to bogus phone calls, (b) all retail banks to provide customer hotlines to facilitate the public in verifying the identity of callers as genuinely from banks or not, and (c) all banks to cease the use of referral services provide by intermediaries in respect of applications for retail consumer financial products or services so that if there were intermediaries claiming to be able to provide referral services to banks in respect of personal loans, tax loans and credit cards, the

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public should be aware that such arrangements were not authorized by banks and might likely involve fraudulent acts. As regards other loan arrangements, only third parties appointed by a bank could provide referral services to the bank.

*Debt management advisory services*

57. Ms Alice MAK was of the view that the Government should increase its resources provided to non-governmental organizations ("NGOs") for enhancing debt management advisory services to assist people facing financial problems so that people in financial distress could seek assistance and independent advice on how to handle the problems and be less vulnerable to deceiving tactics by unscrupulous intermediaries.

58. DSFS said that the Government had launched a three-year pilot programme to provide assistance/counseling service to people in financial distress through dedicated telephone hotlines set up by two subvented NGOs, namely Caritas Hong Kong and Tung Wah Group of Hospitals ("TWGHs"). A total of around 3 680 calls were received as of 30 September 2017 by the hotlines. It was noted that about 90% of the callers were in financial or mental distress because of indebtedness and about 6% of the callers suspected that they had been approached or deceived by fraudsters. The two NGOs would provide emotional support and make referrals to their related social services units for arranging counseling services, such as the debt and financial counseling services provided by the Caritas Family Crisis Line and Education Centre and TWGHs Healthy Budgeting Family Debt Counseling Centre.

*Review of the Money Lenders Ordinance*

59. The Chairman asked if the Administration would consider introducing amendments to some out-dated provisions of MLO, in particular provisions on the current cap on the effective interest rate for a loan. Ms Alice MAK also urged the Administration to review and amend MLO in order to address possible loopholes arising from the new *modus operandi* of money lenders, such as providing money lending services through online platform or hotlines.

60. DSFS said that the crux of the problem was the malpractices of unscrupulous intermediaries to conceal their relationship with money lenders in order to circumvent the statutory prohibition on separate fee charging as well as the current cap of 60% per annum on the effective interest rate for a loan. The Government hence sought to address the problem through imposing more stringent licensing conditions on money lenders since December 2016. In particular, if a borrower had signed an agreement with an intermediary in applying for a loan from a money lender, the money lender had to ensure, before

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granting the loan, that the intermediary involved had been appointed by it. The appointed intermediary must not charge the borrower any fees, as under the law the borrower must not be separately charged on top of the interest on the loan. The Government currently had no plan to amend MLO.

*Proposal of introducing a registration /licensing system for financial intermediaries*

61. Ms Alice MAK urged the Administration to consider addressing the malpractices by intermediaries through introducing a registration or licensing regime for intermediaries so that their operation would be subject to a regulatory regime.

62. DSFS explained that according to the licensing conditions, money lenders were required to report their appointment of intermediaries to the CR and such appointments would be included in the Register of Money Lenders for public inspection. Hence, intermediaries were already required to be formally appointed by licensed money lenders, and members of the public could verify the identities of intermediaries by checking the Register of Money Lenders. In fact, the lists of appointed intermediaries had been downloaded almost 140,000 times over the past year.

*Consent of loan referees*

63. Mr CHEUNG Kwok-kwan noted that the Administration was exploring the feasibility of requiring money lenders to obtain the consent of a loan referee through the borrower if a referee was involved in a loan arrangement. He pointed out that there were cases involving fraudulent uses of personal data of innocent members of the public by parties resulting in they being deemed by finance companies as loan referees without their knowledge. He stressed the importance of obtaining written consent from a loan referee, for instance a money lender had to include the signature of the referee in the loan agreement. He also suggested that the Administration should consider adding a statement in the loan agreement reminding borrowers that it was an offence of making false statement, and including information of the responsibilities of a loan referee in the agreement to enhance the awareness of the referee.

64. DSFS took note of Mr CHEUNG's suggestions and said that the Government would consider the proposed further enhancement measures in a timely manner. She added that unlike a guarantor, there was no undertaking on the part of the referee to repay the debts of the borrower in the event of default.

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65. Mr WU Chi-wai cast doubt on the need to involve a referee in a loan given that a loan referee, unlike a guarantor, did not have the legal obligation to repay the debts of the borrower in case of default.

66. DSFS said that according to information from the trade, only a limited number of money lenders would involve a referee in a loan arrangement. Given the difference in nature between a loan guarantor and a loan referee, and after consultation with relevant stakeholders, the Government considered that there was no sufficient justification of banning the involvement of a referee in a loan.

*Advertisements on money lending*

67. Mr WU Chi-wai expressed grave concern on the misleading messages conveyed by many advertisements of money lenders and intermediaries which aimed at encouraging the public to borrow money. He called on the Administration to tighten the regulation of advertisements on money lending.

68. DSFS advised that the more stringent licensing conditions on money lenders included requiring all advertisements of a money lender in relation to its money lending business to contain a risk warning statement "Warning: You have to repay your loans. Don't pay any intermediaries". One of the purposes was to alert the public about the problem of over-borrowing. Moreover, the Government had rolled out a series of public education and publicity activities to promote the message of prudent borrowing and proper debt management. In collaboration with the Consumer Council, online videos on responsible borrowing targeting young people had also been launched recently.

*(At 12:04 pm, the Chairman ordered that the meeting be extended for 15 minutes to 12:30 pm to allow sufficient time for discussion.)*

**VII Any other business**

69. There being no other business, the meeting ended at 12:27 pm.