

立法會
Legislative Council

LC Paper No. CB(1)1315/18-19
(These minutes have been seen
by the Administration)

Ref : CB1/PL/FA

Panel on Financial Affairs

**Minutes of meeting held on
Monday, 6 May 2019, at 9:30 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Christopher CHEUNG Wah-fung, SBS, JP
(Chairman)
Hon Kenneth LEUNG (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-yee, GBS, JP
Hon WU Chi-wai, MH
Hon Charles Peter MOK, JP
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, JP
Hon LUK Chung-hung, JP

Members attending : Hon CHAN Hak-kan, BBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon Elizabeth QUAT, BBS, JP

Members absent : Hon Steven HO Chun-yin, BBS
Hon Dennis KWOK Wing-hang
Hon CHEUNG Kwok-kwan, JP

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

Mr Darryl CHAN, JP
Executive Director (Corporate Services)
Hong Kong Monetary Authority

Agenda Item V

Ms NG Ching-ching, Winnie, JP
Deputy Secretary for Financial Services and the
Treasury (Financial Services)³

Agenda Item VI

Ms NG Ching-ching, Winnie, JP
Deputy Secretary for Financial Services and the
Treasury (Financial Services)³

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

Ms CHUNG Lai-ling, Ada, JP
Registrar of Money Lenders

Ms LEE Hau-chi, Ida
Assistant Registry Manager
Companies Registry

Attendance by invitation : Agenda Item V

Dr WONG Tin-yau, Kelvin, JP
Chairman
Financial Reporting Council

Ms LAM Wing-chi, Wincey
Acting Chief Executive Officer
Financial Reporting Council

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

Staff in attendance : Miss Sharon LO
Senior Council Secretary (1)9

Ms Sharon CHAN
Legislative Assistant (1)4

Action

I Confirmation of minutes of meeting and matters arising

(LC Paper No. CB(1)951/18-19 — Minutes of the meeting on
19 February 2019)

The minutes of the meeting held on 19 February 2019 were confirmed.

Action

II Information papers issued since the regular meeting on 1 April 2019

(LC Paper No. CB(1)820/18-19(01) — Fourth quarterly report of 2018 on "Employees Compensation Insurance — Reinsurance Coverage for Terrorism"

LC Paper No. CB(1)961/18-19(01) — Hong Kong Monetary Authority Annual Report 2018)

2. Members noted the information papers issued since the regular meeting held on 1 April 2019.

III Date of next meeting and items for discussion

(LC Paper No. CB(1)954/18-19(01) — List of outstanding items for discussion

LC Paper No. CB(1)954/18-19(02) — List of follow-up actions)

3. Members agreed to discuss the following items proposed by the Administration at the regular meeting scheduled for 3 June 2019, from 9:30 am to 12:30 pm:

- (a) Briefing by the Financial Secretary on Hong Kong's latest overall economic situation;
- (b) Enhancing support for Tax Policy Unit;
- (c) Legislative proposals to further the development of the insurance sector; and
- (d) Legislative framework for group-wide supervision of insurance groups.

IV Briefing on the work of the Hong Kong Monetary Authority

(LC Paper No. CB(1)954/18-19(03) — Paper provided by the Hong Kong Monetary Authority)

Action

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 ("DCE(D)/HKMA") 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)1019/18-19(01)) were issued to Members vide Lotus Notes e-mail on 6 May 2019.)

Discussion

Macroeconomic environment and the impacts of interest rate normalization

5. Mr Jeffrey LAM noted that EF recorded a huge investment income in the first quarter of 2019, and sought HKMA's assessment of EF's investment performance in 2019 amidst various uncertainties surrounding the global economy. Noting that the President of the United States ("the US") had just stated that the US would increase its tariffs on US\$200 billion worth of Chinese goods imported to the US, Mr LAM expressed grave concern about the impact of such a move on the global and Hong Kong economy. He also sought HKMA's views on the possible impact of the passage of the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 on the Hong Kong economy.

6. CE/HKMA said that gains in bonds and equities, as well as positive currency translation effect had contributed to the good investment income of EF in the first quarter of 2019. However, as the global economy continued to be overshadowed by a number of uncertainties, it would be difficult to predict EF's investment performance for 2019 as a whole. In particular, since the markets had anticipated that the US and China could reach a trade deal, there would be substantial financial market corrections if the actual outcomes deviated from market expectations.

7. Mr CHAN Kin-por declared that he was an independent non-executive director of the Bank of East Asia Limited. He pointed out that the US Federal Reserve's recent pause in interest rate hikes might cause the interest rates of

Action

several economies including Hong Kong to remain at abnormally low levels, which could subsequently result in asset bubbles. He enquired how HKMA would prepare Hong Kong for the possible burst of such bubbles.

8. CE/HKMA said that the US Federal Reserve had slowed down its pace of interest rate hikes recently as inflationary pressure in the US remained low. As to whether major corrections in global financial markets would affect Hong Kong, he said that the local banking sector's resilience to shocks had enhanced significantly following the introduction of HKMA's countercyclical prudential measures on mortgage loans.

9. Mr CHAN Chun-ying declared that he was a consultant of the Bank of China (Hong Kong) Limited. He pointed out that the continuous drop in Hong Kong's aggregate balance had not resulted in a significant reduction in the Hong Kong dollar ("HKD")-US dollar ("USD") interest rate spreads. He sought HKMA's assessment if there was continuous capital outflow from Hong Kong, and whether this could lead to further weakening of HKD.

10. CE/HKMA remarked that under the Linked Exchange Rate System, if HKD-USD interest rate spreads widened, investors would be induced to conduct carry trade activities to sell HKD for USD. Hong Kong's aggregate balance would decline, resulting in a rise in HKD interest rates and hence narrowing of HKD-USD interest rate spreads. This would in turn support HKD exchange rate. He pointed out that Hong Kong's existing large Monetary Base provided an ample buffer against any capital outflow, and therefore the pace of HKD interest rate increases should not be too rapid.

11. Mr Jeffrey LAM noted that a number of enhancement measures were introduced to the SME Financing Guarantee Scheme ("SFGS") in late 2018, and requested HKMA to provide information on the industry's feedback to SFGS including changes in the number of applications and average loan amount as well as major changes in the industry types of application after implementation of the enhancement measures.

12. CE/HKMA responded that the Hong Kong Mortgage Corporation Limited had been actively meeting with banks and other stakeholders to promote more active use of SFGS. The industry's feedback to SFGS's enhancement measures was positive. He undertook to provide information as requested by Mr Jeffrey LAM after the meeting.

(Post-meeting note: HKMA's supplementary information was circulated to members vide LC Paper No. CB(1)1078/18-19(02) on 21 May 2019.)

Action

Development of financial technologies

13. With the continuous issuance of virtual banking licences by HKMA, Mr CHAN Chun-ying expressed concern about the competition for financial technologies ("Fintech") talents in the banking industry. He enquired whether HKMA had assessed the impact on the manpower situation of the banking industry, and what measures it would take to enhance manpower training in the industry. Mr CHAN Kin-por raised similar enquiries and asked how the introduction of virtual banking could enhance development of the banking industry and experience of customers.

14. CE/HKMA and DCE(B)/HKMA said that HKMA had announced the granting of four virtual banking licences and was making good progress in processing the remaining four applications which had been shortlisted for detailed due diligence. Even if all of them were taken into account, the total manpower requirement of virtual banks in the coming three years would only account for around 1.7% of the existing manpower of the banking industry. Besides, HKMA had introduced measures including the Enhanced Competency Framework to improve capacity building in the banking industry. CE/HKMA added that the launch of virtual banks in Hong Kong would facilitate financial innovation and enhance customer experience, which would be conducive to the overall development of the banking industry.

15. In view of the increasingly prevalence of new electronic payment methods such as the Faster Payment System ("FPS") and stored value facilities ("SVFs"), Mr SHIU Ka-fai called on HKMA to take measures to help the retailing industry grasp such new technologies. Mr WONG Ting-kwong suggested that HKMA should issue guidelines for banks on the handling of refund for transactions wrongly made by parties, as some members of the public might not fully grasp the use of FPS. Moreover, with the rapid development of e-wallets in Hong Kong, he enquired about HKMA's measures to enhance cybersecurity including whether HKMA and the banking industry had plans to step up the relevant public education and publicity programmes.

16. CE/HKMA and DCE(D)/HKMA responded that HKMA would continue to collaborate with the banking industry in promoting the use of new electronic payment methods, especially for person-to-merchant payments. Some banks had started liaising with merchants on the use of FPS for collecting payments. As the transaction fees of FPS were lower and payments could be received by merchants on a real-time basis, there was great incentive for merchants to use FPS. However, since FPS was still new, it would take some time for merchants to fully understand the business benefits of adopting FPS. Regarding mis-transfer of funds by bank customers, HKMA had issued guidelines to banks on the proper handling of these incidents. As for cybersecurity, HKMA attached great

Action

importance to the matter, and would promptly address any security loopholes identified. In this regard, HKMA would work with the banking industry to implement SVF security 2.0 with a view to enhancing SVF account structure and account opening. While customers would not be liable for any unauthorized transactions and would not bear financial losses as a result, HKMA would step up publicity to raise public awareness of the need to stay vigilant in using new electronic payment methods.

17. Mr CHAN Chun-ying enquired about the progress of remedial and enhancement measures taken in response to the incident concerning online security of consumer credit data maintained by TransUnion Limited ("TransUnion") happened in early 2019, and how HKMA would enhance the relevant regulatory regime of consumer credit reference service providers and whether it would consider introducing competition in the services.

18. DCE(B)/HKMA responded that TransUnion had engaged an independent third party to conduct a review of its security and application architecture and implementation. It was anticipated that the independent review would be completed soon. HKMA would continue to work with the Hong Kong Association of Banks in following up with TransUnion on the remedial actions and enhanced controls. DCE(B)/HKMA added that as he understood, the compliance investigation conducted by the Office of the Privacy Commissioner for Personal Data ("PCPD") against TransUnion was still underway. HKMA would consider the need of enhancement measures having regard to the reports of TransUnion's independent review and PCPD's compliance investigation. In parallel, HKMA had been in discussion with the banking industry on the feasibility of introducing more credit reference service providers in Hong Kong.

Development of the financial services industry

19. Mr Holden CHOW enquired if HKMA had any role in the formulation of guidelines to be issued by the Insurance Authority ("IA") for insurance intermediaries under the new regulatory regime. He urged HKMA and IA to consult the banking industry and the insurance industry on the draft guidelines.

20. DCE(B)/HKMA clarified that IA was responsible for formulating regulatory requirements for insurance activities under the new statutory regime. As far as Qualifying Deferred Annuity Policy ("QDAP") was concerned, HKMA, as the frontline regulator of banks, had issued guidance to the banking industry on the selling of QDAP to ensure banks' compliance with IA's relevant regulatory requirements.

21. In response to Mr SHIU Ka-fai's enquiries about utilization of the average daily transaction volume under the Shanghai-Hong Kong Stock Connect and the

Action

Shenzhen-Hong Kong Stock Connect and HKMA's measures to promote the use of the facility, CE/HKMA said that given the use of Stock Connects was influenced by a host of factors, the transaction volume of the Stock Connects was considered satisfactory.

The property market

22. Mr Jeffrey LAM pointed out that despite implementation of several rounds of countercyclical macroprudential measures by HKMA and the demand-side management measures by the Administration, the local property prices kept on rising. He also expressed concern that the Administration's decision to adjust the provision of residential units from 60:40 split between public and private housing to 70:30 split might reduce the supply of private housing units, thus driving up their prices further.

23. Mr SHIU Ka-fai sought HKMA's views on the possible impacts on the local property market if the Lantau Tomorrow Vision Plan, which aimed to increase Hong Kong's land supply, could not be implemented.

24. CE/HKMA responded that property prices were affected by a host of factors including borrowing cost, the actual and anticipated supply of land and housing units, etc. One of the key responsibilities of HKMA was to ensure stability of the banking system in Hong Kong. Over the years, banks' resilience to property market downturn had greatly enhanced. That said, CE/HKMA cautioned that as the house price-to-income ratio remained at a high level, prospective property buyers should carefully assess their repayment ability before taking on mortgage loans.

25. Noting that the total household debt to Hong Kong's gross domestic product ("GDP") ratio was on the rise in recent years with the total household debt stood at some 71.9% of Hong Kong's GDP in 2018, Mr Holden CHOW enquired whether the upward trend was mainly attributed to the rising property market, and whether the weighting of residential mortgage, being the largest component of household debt, would increase further if the interest rates of Hong Kong continued to rise.

26. DCE(B)/HKMA responded that the increase in residential mortgage was in line with the overall rising trend of household debt. He said that Hong Kong's total household debt in 2018 had increased by 9% over the level in 2017, and the corresponding rise in its components "residential mortgage", "credit card advances" and "loans for other private purposes" were 9%, 5% and 12% respectively. Among them, growth in the component "loans for other private purposes" was largely attributed to the increase in its major sub-item, i.e. wealth

Action

management-related loans arranged for private banking customers, which had increased by 14% over the level in 2017.

The Exchange Fund

27. Noting that HKMA had been taking environmental, social and governance ("ESG") principles into account in making decisions on EF's investments, Mr CHU Hoi-dick enquired whether HKMA would consider taking further steps in upholding the ESG principles in EF's investments including not to invest in projects which had or would have negative impact on the environment, and specifying a certain percentage of EF's assets to be invested in green financial products.

28. Mrs Regina IP pointed out that credit rating agencies such as the Standard and Poor's ("S&P"), and the Morgan Stanley Capital International ("MSCI") had conducted in-depth research on ESG issues and introduced tools for assessing the ESG scores of companies as well as taken into account companies' compliance with the ESG principles in providing ratings for companies. She considered that HKMA and the Hong Kong Exchanges and Clearing Limited ("HKEX") should pay heed to such developments and implement measures to enhance Hong Kong's competitiveness in green finance and attract investors in sustainable development projects to Hong Kong. Mrs IP also urged that HKMA should carefully assess whether the companies or projects in which EF had invested were genuinely complying with the ESG principles. For instance, HKMA should monitor whether the business activities of such companies had destroyed social cohesion and reduced consumers' choices.

29. DCE(M)/HKMA said that ESG principles had been taken into account in EF's investment process. For example, HKMA had incorporated ESG factors in its credit risk analysis of bond investment. HKMA had also conducted ESG assessments for EF's investments in private equity. In terms of equities, HKMA had required its external fund managers to specify the ESG principles they had adopted, and explain how they would comply with such principles in making EF's investments. DCE(M)/HKMA added that HKMA would further increase EF's investments in green financial products, but did not consider it appropriate to set a specific target for such investments.

30. Regarding the application of ESG principles in the international financial markets, DCE(M)/HKMA said that HKMA was aware of the relevant initiatives launched by major index providers and credit rating agencies, including tools for assessing ESG scores and formulation of ESG indexes. HKMA had been discussing with EF's external fund managers on the feasibility of using ESG indexes as benchmarks for EF's investments. CE/HKMA added that apart from

Action

EF's investments, HKMA would promote green and sustainable banking in Hong Kong, with a view to developing Hong Kong into a green financial centre.

Motion

31. A number of members expressed gratitude to CE/HKMA, who would retire in October 2019, for his good work over the years. At 11:02 am, the Chairman said that he had received a proposed motion from Mr Kenneth LEUNG on the matter, and considered the motion directly related to the agenda item. As no member objected to the Panel to proceed dealing with the motion, the Chairman invited Mr LEUNG to read out his motion. The terms of the motion were as follows –

"This Panel extends its heartfelt gratitude to Mr Norman CHAN for leading the work of the Hong Kong Monetary Authority over the years."

32. As the Panel did not have a quorum, the Chairman instructed the Clerk to ring the quorum bell. A quorum was presented at 11:04 am. The Chairman then put Mr LEUNG's motion to vote. All members present voted for the motion. The Chairman declared that the motion was carried.

(At 11:05am, the Deputy Chairman took the chair.)

V Progress Report on the work of the Financial Reporting Council

(LC Paper No. CB(1)954/18-19(04) — Financial Reporting Council's paper on "Progress Report on the work of the Financial Reporting Council"

LC Paper No. CB(1)1005/18-19(01) — Updated background brief on the work of the Financial Reporting Council prepared by the Legislative Council Secretariat)

Briefing by the Administration and the Financial Reporting Council

33. Upon invitation, the Chairman, Financial Reporting Council ("C/FRC") and Acting Chief Executive Officer, Financial Reporting Council ("ACEO/FRC") briefed members on the major achievements of the Financial Reporting Council ("FRC") and the operations statistics in 2018 with the aid of a powerpoint presentation.

Action

(*Post-meeting note: The powerpoint presentation materials (LC Paper No. CB(1)1019/18-19(02)) were issued to Members vide Lotus Notes e-mail on 6 May 2019.*)

Discussion

Investigations conducted by the Financial Reporting Council and collaboration with other financial regulators

34. Mr CHAN Chun-ying remarked that among the complaints received by FRC in 2016, 19% and 50% involved small and medium -sized accounting firms respectively while 31% involved the "Big Four" accounting firms. He enquired about the trend of proportion of complaints against the sizes of accounting firms received in 2017 and 2018.

35. ACEO/FRC replied that as set out in FRC's Annual Report 2018, the trend of proportion of pursuable complaints against accounting firms of various sizes between 2014 and 2018 remained steady, with complaints against small and medium-sized accounting firms making up more than half of the total number of pursuable complaints received.

36. Mrs Regina IP asked what major auditing or reporting irregularities of listed companies' audits, especially Mainland companies, had been identified during FRC's investigations. She also enquired about the follow-up actions taken by other regulatory bodies against complaints referred to them by FRC.

37. Mr Holden CHOW Ho-ding stressed that FRC's regulatory work was essential in maintaining Hong Kong's reputation and status as an international financial centre. He enquired about how FRC would collaborate with other financial regulators including the Securities and Futures Commission ("SFC"), HKEX and the Hong Kong Institute of Certified Public Accountants ("HKICPA"). He also called on FRC to strengthen publicity on the various areas of its work.

38. ACEO/FRC advised that the major auditing irregularities identified during the investigations in recent years were primarily related to financial instruments, impairment of financial/non-financial assets, business combinations and valuations. On the whole, the irregularities identified were technical in nature which reflected that the relevant auditors had not followed the relevant auditing and accounting principles closely. FRC cross-referred cases to other regulators including HKICPA for follow-up.

Action

39. C/FRC supplemented that FRC would include issues identified in the investigations in its newsletter with the identities of the parties concerned in anonymous form. It was believed that such information would serve as a form of public education for the accounting and auditing profession.

40. On the collaboration among FRC, SFC and HKEX, ACEO/FRC advised that the bodies held regular meetings to discuss case referrals, corporate governance, and other issues in relation to listed companies.

Review of financial statements of listed companies

41. Mr CHAN Chun-ying noted that in 2018, FRC in collaboration with HKEX and HKICPA, had reviewed 27 financial statements of listed companies which had adopted the Chinese Accounting Standards for Business Enterprises ("CASBE"), among which 11 financial statements were reviewed solely by FRC. Mr CHAN asked whether FRC had plans to conduct the review of CASBE financial statements in-house in the long run.

42. ACEO/FRC advised that under the Financial Statements Review Programme ("FSRP"), FRC had been collaborating with HKEX and HKICPA in selecting the financial statements of various types of listed companies for review including companies adopting CASBE. The review on CASBE financial statements was one of the items of the FSRP.

International collaborations of the Financial Reporting Council

43. Mrs Regina IP asked when Hong Kong would be eligible for membership of the International Forum of Independent Audit Regulators ("IFIAR"), i.e. immediately after the passage of the Financial Reporting Council (Amendment) Ordinance 2019 ("the Amendment Ordinance") or when it took effect, and whether the quality of auditors of Hong Kong's listed companies would meet the requirements of the European Commission. Mr Holden CHOW expressed support for Hong Kong to apply for the IFIAR membership.

44. ACEO/FRC advised that FRC was making preparations for applying for IFIAR's membership. Representatives of FRC had recently attended IFIAR's plenary meeting as an observer to better pave the way for Hong Kong in joining IFIAR, as well as to update IFIAR members on FRC's new regulatory regime under the Amendment Ordinance. As regards the standard of Hong Kong accounting professionals, she replied that there were currently some 2 300 listed companies in Hong Kong, and that FRC received about 85 pursuable complaints annually and the majority of them did not give rise to any investigation. The figures had demonstrated the good reputation of Hong Kong's accounting and auditing profession.

Action

45. In response to Mr Kenneth LEUNG's enquiry about the work progress for FRC to sign a Memorandum of Understanding ("the MoU") with the Ministry of Finance of China ("MoF") relating to cross-boundary collaboration in audit regulation, ACEO/FRC said that FRC had been in discussion with MoF for some years regarding the MoU. With FRC taking up the new role as an independent oversight body for regulating auditors under the Amendment Ordinance, FRC and MoF planned to sign the MoU later in May 2019. The MoU aimed to promote cross-boundary collaboration on audit regulation, and would facilitate FRC in gaining access to audit working papers located in the Mainland through a mechanism and procedures for inspection and investigation conducted by FRC.

Funding for the Financial Reporting Council

46. Mr CHAN Chun-ying noted that the Administration had increased the seed capital for FRC to \$400 million after the enactment of the Amendment Ordinance, and enquired if the seed capital had been provided to FRC.

47. Deputy Secretary for Financial Services and the Treasury (Financial Services)3 ("DS(FS)3") advised that the seed capital would be provided to FRC after the passage of the Appropriation Bill. Meanwhile, the Administration had been discussing with FRC the usage of the seed capital. The \$400 million seed capital would help FRC migrate to the new regulatory regime, and the levies for the first two years upon the implementation of the new regime would be exempted.

48. Mr Kenneth LEUNG remarked that despite the heavy workload of FRC, members of FRC received no honorarium for their service. He enquired whether the Administration would consider providing honorarium to FRC members.

49. DS(FS)3 advised that FRC members, except for the Chief Executive Officer, provided their service on a pro bono basis. Under Schedule 2 to the Amendment Ordinance, the Chief Executive of Hong Kong could determine the terms and conditions of office of FRC members (including the provision of remuneration and allowances). In the light of the future workload of FRC, the Administration would review the terms and conditions of office of FRC members if necessary.

The proposed sanctions guidelines

50. Mr Kenneth LEUNG noted that FRC had conducted a consultation on the proposed sanctions guidelines ("the Guidelines") for FRC in imposing pecuniary penalty, and enquired about the views collected during the consultation and when the Guidelines would come into force.

Action

51. C/FRC replied that on 17 March 2019, FRC issued the draft Guidelines to all the stakeholders including professional bodies and audit firms of listed companies. From 27 March to 17 April, FRC had arranged 15 meetings and briefings for the stakeholders which had resulted in fruitful discussions on the draft Guidelines. On the whole, FRC had received positive comments from the stakeholders. FRC would hold a council meeting in mid-May to discuss the written views received during the consultation and the formulation of FRC's responses.

VI Update on measures to tackle money lending-related malpractices

(LC Paper No. CB(1)954/18-19(05) — Administration's paper on "Measures to tackle money lending-related malpractices"

LC Paper No. CB(1)1005/18-19(02) — Updated background brief on regulatory arrangements to tackle malpractices by financial intermediaries for money lending prepared by the Legislative Council Secretariat)

52. The Deputy Chairman asked why there was no representatives from the Hong Kong Police Force ("the Police") attending the item. DS(FS)3 said that the Police had not joined the Administration's previous briefings for the Panel on the subject. She trusted that the Police would be willing to attend future meetings on the subject if invited by the Panel.

Briefing by the Administration

53. At the invitation of the Deputy Chairman, DS(FS)3 updated members on the progress in implementing the four-pronged approach to tackle the malpractices by financial intermediaries in relation to money lending ("intermediaries") since 2016, namely (a) enhanced enforcement by the Police, (b) imposition of more stringent licensing conditions on money lenders, (c) enhanced public education and publicity, and (d) enhanced advisory services to the public. She said that the four-pronged approach had been effective in general in addressing money lending-related malpractices. The number of complaints against unscrupulous intermediaries received by the Police had significantly dropped in 2017 and 2018 and the overall compliance with the licensing conditions was satisfactory. The Administration would continue to

Action

closely monitor the effectiveness of the four-pronged approach, and consider further enhancement measures as and when necessary.

Discussion

Regulation of money lenders and debt collectors

54. While noting that according to the law money lenders and their associated persons were prohibited from charging any fees on borrowers other than interest on a loan, Mr LUK Chung-hung enquired whether debt collectors were regarded as associated persons of money lenders as it had been noted that there were cases where debt collectors charged very high administration fees. He further enquired about regulation on debt collection activities, in particular under what circumstances money lenders could refer their cases to debt collectors.

55. Registrar of Money Lenders advised that under the Money Lenders Ordinance (Cap. 163) ("MLO") and the licensing conditions imposed on money lenders, the agents and employees of or any persons acting for money lenders were prohibited from charging any fees on a borrower other than the interest charged. It was an offence if a debt collector, being the agent of or acting for the money lender, charged any fees, including administration fees, on a borrower.

56. Ms Alice MAK and Mr Holden CHOW expressed concern on debt collectors' improper practices in recovering loans. Ms MAK expressed particular concern about the collection and handling of personal data by money lenders and debt collectors and their intimidating acts. Mr CHOW pointed out that some debt collectors had been using such acts to disturb borrowers and enquired how the Companies Registry ("CR") and the Police would collaborate in stopping such acts.

57. DS(FS)3 said that complaints on debt collection activities with criminal elements would be handled by the Criminal Investigation Unit set up by the Police. The Police had conducted two targeted enforcement operations in 2019 against unlawful debt collection activities which covered some 90 cases of criminal damage or intimidation, and arrested 16 people during the operations. Members' concerns over improper practices employed by debt collectors would be conveyed to the Security Bureau and the Police.

58. As regards the improper practices of money lenders and debt collectors, Registrar of Money Lenders explained that pursuant to the licensing conditions, money lenders and their debt collectors were prohibited from recovering debts, whether directly or indirectly, from any persons unless such persons were in law indebted to them, and they must not harass anyone or adopt unlawful or improper debt collection practices. If a licensed money lender was found to have been

Action

involved in improper debt collection practices, CR would take prompt follow-up actions, including requiring the money lender concerned to make rectifications within a specified period, taking actions to revoke the licence or raising objections to renew the licence.

59. Dr Elizabeth QUAT expressed concern that many money lenders and intermediaries had been including misleading messages in their advertisements to induce excessive consumption and encourage people to raise debts for consumption. There were also complaints about fraudsters using various forms of employment traps to induce young people to arrange huge loans. She said the Democratic Alliance for the Betterment and Progress of Hong Kong had suggested that the Administration should conduct a comprehensive review of the regulatory regime for money lenders and consider introducing a licensing regime for intermediaries, banning misleading messages in the advertisements of money lenders and intermediaries that encouraged excessive consumption, and restricting money lenders to provide loans to people who could not produce any income proof or collateral, or could not pass the pressure test demonstrating their repayment ability.

60. DS(FS)3 said that having regard to the problems of fraudsters claiming to be intermediaries and using deceptive tactics to induce prospective borrowers to engage them for arranging loans and charge very high fees during the process, the Administration had implemented the four-pronged approach since 2016 to tackle these problems. To address the latest *modus operandi* and trends of money lending-related malpractices, the Administration had also rolled out a new series of public education and publicity activities, including producing short videos and publishing them on various social media platforms to alert the public about the negative consequences of "spending the money before earning it" and excessive consumption. As for concerns about employment traps particularly in the summer, DS(FS)3 said that the Police would step up enforcement and launch timely publicity and education campaigns to alert young people to stay vigilant to such traps.

61. Mr WU Chi-wai stressed that the Police should be more proactive in assisting borrowers who were suffering from intimidating acts of debt collectors. He also requested the Administration to provide information on money lenders' share in Hong Kong's money lending market and the possible risks to the financial system of Hong Kong arising from those lending activities.

(*Post-meeting note:* The Administration's supplementary information was circulated to members vide LC Paper No. CB(1)1078/18-19(03) on 21 May 2019.)

Action

62. DS(FS)3 said that the mode of operation of money lenders was different from other financial institutions, such as banks, as they did not accept or handle deposits from clients. According to the information collected by HKMA from banks on property-related lending by finance companies which had obtained financing from banks (many of these finance companies were money lenders), the amount of loans with property pledged as collateral provided by these finance companies were less than 1% of the total outstanding residential mortgage loans of the banking sector in Hong Kong. Hence, the Administration considered the operation of money lenders should not have significant implications on the stability of the banking and financial systems. As regards debt collectors' improper debt collection practices, DS(FS)3 reiterated that members' concerns would be conveyed to the Security Bureau and the Police.

63. Mr CHAN Chun-ying asked whether the Administration would study the feasibility of requiring money lenders to record the details of the loan negotiation process through audio recording. In view of the prevalence of deceptive tactics of some money lenders and intermediaries using person-to-person telemarketing calls ("P2P calls") and disguising as bank staff to induce people to make loans, Mr CHAN suggested that the Administration should consider developing a mobile application to assist the public to ward off bogus phone calls.

64. Registrar of Money Lenders replied that the additional licensing conditions imposed on money lenders since 2016 required money lenders to explain to their prospective borrowers the terms of repayment in a loan agreement (including interest rate, amounts of repayment, and possible consequences for any default in repayment, etc.), and to keep written, video or audio records showing their compliance with the requirement. As there were concerns from some money lenders about operational difficulties in making video or audio recording of the loan negotiation process, and about borrowers' refusal to the arrangement; the Administration therefore considered it necessary to provide the alternative of recording the loan process in written form. As regards P2P calls, DS(FS)3 said that the regulation of P2P calls was under the purview of the Commerce and Economic Development Bureau ("CEDB"), and it was noted that CEDB had been working on the regulation of P2P calls and would put in place an "opt-out" arrangement for phone users on such calls. She undertook to convey Mr CHAN's suggestion to CEDB.

Review of the Money Lenders Ordinance

65. Mr LUK Chung-hung asked if the Administration would conduct a review on MLO including the current cap of 60% per annum on the effective interest rate for a loan.

Action

66. DS(FS)3 said that under MLO, it was an offence for a person providing a loan at an effective interest rate exceeding 60% per annum. Currently, there was no international standard practice in setting an interest rate ceiling on money lending business. For instance, while Singapore did not impose a single ceiling on interest rate of all types of loan, the United Kingdom ("UK") imposed a ceiling on the daily rate for high-risk short-term loans. While the Administration did not have any plan to amend MLO at the moment, it would continue to closely monitor the operation of the regulatory regime for money lenders and consider the need of implementing new measures as and when necessary.

67. Ms Alice MAK and Mr LUK Chung-hung expressed disappointment towards the Administration's response. Referring to the measures adopted by the Governments of UK and Singapore in regulating money lenders, as well as their advisory services provided to the public on money and debt management, the details of which were provided in a paper submitted by the Hong Kong Federation of Trade Unions to the Administration in 2015, Ms MAK expressed grave concern that the Administration had failed to make reference to the paper in enhancing the regulatory regime for money lenders in Hong Kong. She reiterated the need for the Administration to conduct a review of the outdated provisions in MLO as it had been pointed out in the court rulings of some recent cases that the loan agreements between money lenders and borrowers should not be honoured given the excessive interest rate charged by the money lenders concerned.

68. Mr WU Chi-wai echoed the need for the Administration to review the cap on effective interest rate for a loan in MLO. As the mode of operation of money lenders was similar to that of "underground banks", he asked if the Financial Services and the Treasury Bureau would consider regulating money lending-related activities from the perspective of maintaining stability of the banking and financial systems of Hong Kong.

69. DS(FS)3 pointed out that in 2016, the crux of the problems associated with money lending was the malpractices of unscrupulous intermediaries to conceal their relationship with money lenders in order to circumvent the statutory prohibition on separate fee charging. The Administration then considered that introducing the four-pronged approach, particularly the imposition of more stringent licensing conditions on money lenders, could combat more directly and timely the problem of unscrupulous intermediaries overcharging borrowers. While the Police received some 600 complaints against unscrupulous intermediaries in 2016 before the implementation of the four-pronged approach, the number of complaints had dropped to below 200 complaints each year in 2017 and 2018. As regards the interest charged by money lenders, DS(FS)3 said that Schedule 2 to MLO had prescribed the calculation of annual interest rate of a loan. She reiterated that the Licensing Court, CR and the Police were the enforcement agents under MLO. Under MLO, a person carrying on business as a money

Action

lender had to obtain a money lender's licence and operate the money lending business in compliance with the relevant requirements therein. She took note of the views and concerns expressed by Panel members and said that the Administration would consider the need for other measures as and when necessary. Registrar of Money Lenders supplemented that CR was aware of some court cases and the relevant rulings relating to the charging of excessive interest by money lenders.

Advisory services to the public

70. Referring to the three-year pilot programme launched by the Administration in 2016 to provide assistance/counseling service to people in financial distress through dedicated telephone hotlines set up by two non-governmental organizations ("NGOs"), Mr CHAN Chun-ying enquired if the Administration would consider further enhancing the advisory services.

71. DS(FS)3 responded that the Administration had reviewed the advisory services provided by the two NGOs upon completion of the pilot programme in March 2019 which had effectively provided timely and independent advice in a convenient manner for people in financial distress in handling their financial problems, thereby making them less vulnerable to unscrupulous intermediaries. Having considered the benefits of the programme, the Administration would continue to provide resources for such advisory services by the two NGOs for another three years.

72. Mr LUK Chung-hung suggested that the Administration should consider setting up a hotline by itself to provide one-stop service to assist loan seekers who were victims of fraudsters or unscrupulous intermediaries. Ms Alice MAK further suggested that the Administration should enhance public education and publicity to raise people's awareness of and alertness to money lending-related malpractices. Instead of relying on NGOs' services, the Administration should also consider setting up a dedicated office or expanding the services of the Investor Education Centre to providing education and consultation services to the public on money and debt management.

73. DS(FS)3 said that members of the public could call CR's hotline or the "Anti-Scam Helpline 18222" set up by the Police to seek advice and assistance whenever they suspected that they had been approached by unscrupulous money lenders or intermediaries. As regards advisory services to the public, DS(FS)3 and Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)6 ("PAS(FS)6") said that the Administration had rolled out three rounds of public education and publicity activities since 2016. PAS(FS)6 added that the publicity activities on the prevalent malpractices of the intermediaries had included broadcasting Announcements of Public Interest on

Action

television and radio, placing territory-wide advertisements, posting videos on social media platforms, distributing posters and publicity leaflets, etc. Given the increasing prevalence of the deceptive tactics of placing cold calls to people and disguising as bank staff, the publicity activities had alerted members of the public of the need to verify the callers' identity before executing any transactions.

Compliance with licensing conditions

74. Ms Alice MAK enquired why CR, instead of relevant financial regulators or the Police, was responsible for conducting inspections on licensed money lenders, and the details of CR's inspections including the non-compliance cases identified and the rectification orders issued to the money lenders concerned.

75. DS(FS)3 clarified that the Police had carried out a number of targeted enforcement actions against unscrupulous intermediaries in the past. In handling applications for money lender licences and renewal of the licences, the Police would consider relevant past records of the applicants and licence holders including their criminal records, if any, as well as whether they had been involved in intermediary activities employing unscrupulous practices. In addition, the Licensing Court, in processing an application for a money lender licence and the renewal of licence, would consider whether the applicant was a fit and proper person to carry on the business of a money lender.

76. As regards the non-compliance cases identified by CR, Registrar of Money Lenders advised that the majority of them related to the record-keeping requirement on explanations given to the borrowers of the terms and conditions of the loan agreements, and borrowers' responses as to whether they had entered into any agreement with intermediaries, the particulars of the intermediary involved and the relationship between the money lender and the intermediary. In this regard, CR had provided improved sample forms to facilitate licensed money lenders' compliance and to better protect prospective borrowers. CR would take prompt follow-up actions on non-compliance cases including issuing rectification orders to the money lenders concerned to require rectifications within a specified period and conducting follow-up site inspections to check if rectification actions had been taken. In the event of money lenders' failure in rectifying the non-compliance, CR would issue warning letters and arrange for a third site inspection where appropriate. She remarked that money lenders' overall compliance with the licensing conditions was generally satisfactory.

77. Given that the source of funding of money lenders might present a high risk of money laundering or terrorist financing, Mr LUK Chung-hung enquired how the Administration would ensure licensed money lenders could comply with the new licensing condition imposed in 2018 which required them to comply with specific anti-money laundering and counter-terrorist financing ("AML/CTF")

Action

requirements. He also enquired whether the shareholders and directors of a licensed money lender needed to be fit and proper persons.

78. Registrar of Money Lenders replied that pursuant to MLO, the Licensing Court should not grant a money lender licence unless it was satisfied that the applicant was a fit and proper person to carry on the business as a money lender and that the grant of such a licence was not contrary to the public interest in all the circumstances. Moreover, the Police would conduct interviews with all new applicants to investigate (including into the source of funding) and determine if there were grounds for objecting the applications. The Licensing Court should not approve the application if it received an objection to an application. As regards AML/CTF requirements, Registrar of Money Lenders said that CR had issued a guideline in September 2018 setting out the customer due diligence measures required from licensed money lenders and the relevant record-keeping requirements.

(At 12:22 pm, the Deputy Chairman ordered that the meeting be extended for 15 minutes to allow sufficient time for discussion. Members agreed.)

VII Any other business

79. There being no other business, the meeting ended at 12:37 pm.

Council Business Division 1
Legislative Council Secretariat
13 August 2019