

**立法會**  
**Legislative Council**

LC Paper No. LS76/20-21

**Paper for the House Committee Meeting  
on 4 June 2021**

**Legal Service Division Report on Proposed Resolutions under  
section 3(1) of the Loans Ordinance (Cap. 61)**

The Secretary for Financial Services and the Treasury has given notices to move two motions under section 3(1) of the Loans Ordinance (Cap. 61) at the Legislative Council ("LegCo") meeting of 16 June 2021 to seek LegCo's approval to raise the maximum amount of borrowings by the Government under the Government Bond Programme ("GBP")<sup>1</sup> and the Government Green Bond Programme ("GGBP")<sup>2</sup> respectively.

2. Under section 3(1) of Cap. 61, the Government may, in such manner and on such terms and subject to such conditions as may be agreed between the Government and any person, borrow from such person such sum or sums and for such purposes as may be approved by resolution of LegCo. Under section 4 of Cap. 61, to give effect to the terms of any agreement which the Government may enter into with a lender in respect of any borrowing under Cap. 61, the Government may issue bonds, promissory notes or other instruments.

**Proposed resolution to raise the maximum amount of borrowings under the Government Bond Programme**

3. The proposed resolution seeks to give approval to the Government to borrow from any person from time to time for the purposes of the Bond Fund established by the Resolution passed on 8 July 2009 (Cap. 2S) sums not exceeding in total HK\$300 billion or equivalent, and to require that the sums borrowed be credited to the Bond Fund. If passed, the proposed resolution would replace the previous resolution passed by LegCo on 22 May 2013 under section 3 of Cap. 61 (Cap. 61E), which authorizes the Government to borrow from any person from time to time for the purposes of the Bond Fund sums not exceeding in total HK\$200 billion or equivalent that may be outstanding by way of principal at any time.

4. In the 2021-22 Budget, the Financial Secretary ("FS") announced the proposal to raise the borrowing limit of GBP from HK\$200 billion to HK\$300

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<sup>1</sup> GBP was established in 2009 with the policy objective of promoting sustainable development of local bond market in Hong Kong through systematic issuances of government bonds for retail and institutional investors.

<sup>2</sup> GGBP was set up in 2018 with the policy objective of promoting the development of green finance in Hong Kong.

billion. According to paragraph 6 of the LegCo Brief (File Ref: B&M/3/1/2C) issued by Financial Services and the Treasury Bureau ("FSTB") on 26 May 2021, the Bond Fund's position is projected to reach HK\$191.5 billion, near its borrowing limit, by end-2022 if the current issuance pattern of institutional and retail bonds continues. The Administration considers it necessary to raise the borrowing limit for GBP to operate in a sustainable manner to meet the growing demand of institutional and retail investors for government bonds.

### **Proposed resolution to raise the maximum amount of borrowings under the Government Green Bond Programme**

5. The proposed resolution seeks to give approval to the Government to borrow from any person from time to time for the purposes of the Capital Works Reserve Fund ("the Reserve Fund") established by the Resolution passed on 20 January 1982 (Cap. 2A) sums not exceeding in total HK\$200 billion or equivalent, and to require that the sums borrowed be credited to the Reserve Fund. If passed, the proposed resolution would replace the previous resolution passed by LegCo on 15 November 2018 under section 3(1) of Cap. 61 (Cap. 61F), which authorizes the Government to borrow from any person from time to time for the purposes of the Reserve Fund sums not exceeding in total HK\$100 billion or equivalent, being the maximum amount of all borrowings under GGBP that may be outstanding by way of principal at any time.

6. In the 2021-22 Budget, FS announced the plan to issue green bonds regularly and expand the scale of GGBP, and the proposal to double the borrowing ceiling of GGBP from HK\$100 billion to HK\$200 billion to allow for further issuance of green bonds totalling HK\$175.5 billion within the next five years. According to paragraph 16 of the LegCo Brief (File Ref: B&M/3/1/4C) issued by FSTB on 26 May 2021, the total outstanding amount of green bonds is projected to reach the current borrowing ceiling (i.e. HK\$100 billion) around 2023. The Administration considers it necessary to double the borrowing limit to HK\$200 billion to provide enough flexibility to continue with regular green bond issuances and adjust the issuance size and tenor of individuals tranches in response to the prevailing market conditions.

7. According to paragraph 17 of the LegCo Brief (File Ref: B&M/3/1/4C), the green bond proceeds received under GGBP are currently only used to finance or re-finance major green public works projects of the Government under the Reserve Fund that have been approved by the Finance Committee of LegCo. The Administration proposes to expand the scope of GGBP so that the green bond proceeds can be used to fund a wider variety of green projects which are also currently funded under the Reserve Fund, including (a) minor work projects; (b) major systems and equipment; and (c) capital subventions. Members may refer to the LegCo Brief for details.

8. In response to the Legal Service Division's enquiries on the reason(s) for not setting out in the proposed resolution the proposed expansion of scope mentioned in paragraph 7 above, the Administration has explained that it is mentioned in the explanatory note of the proposed resolution that GGBP will provide funding for green projects funded by the Reserve Fund. The previous resolution under section 3(1) of Cap. 61 passed by LegCo on 15 November 2018 (Cap. 61F) also adopted similar drafting and did not expressly provide for the scope of the projects or "green projects". The purpose was to provide flexibility in view of the fast evolving green bond market. The Administration therefore proposes not to state the expansion of scope or prescribe "green project" in the proposed resolution but to state in the explanatory note of the proposed resolution and to elaborate the proposed expansion of GGBP in the LegCo Brief.

### **Consultation with LegCo Panel**

9. As advised by the Clerk to the Panel on Financial Affairs, the Administration briefed the Panel at its meeting on 9 April 2021 on the proposals to raise the maximum amount of borrowings under GBP from HK\$200 billion to HK\$300 billion, and expand the scope of and raise the maximum amount of borrowings from HK\$100 billion to HK\$200 billion under GGBP. Members supported the proposals but raised various issues including utilization of the proceeds under GBP, parameters of GBP, measures to develop the local retail bond market, the recognition of green projects under GGBP, and measures to promote the development of green finance in Hong Kong.

### **Commencement**

10. The two proposed resolutions, if passed, would come into operation on the day of publication in the Gazette.<sup>3</sup>

### **Concluding remarks**

11. Subject to members' views on the issue mentioned in paragraph 8 above, no difficulties relating to the legal and drafting aspects of the two proposed resolutions have been identified.

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<sup>3</sup> If the proposed resolutions are passed by LegCo on 16 June 2021, the Administration intends to publish them in the Gazette on 25 June 2021.