OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 15 March 2000

The Council met at half-past Two o'clock

MEMBERS PRESENT:

THE PRESIDENT
THE HONOURABLE MRS RITA FAN, G.B.S., J.P.

THE HONOURABLE KENNETH TING WOO-SHOU, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE DAVID CHU YU-LIN

THE HONOURABLE HO SAI-CHU, S.B.S., J.P.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE EDWARD HO SING-TIN, S.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, J.P.

THE HONOURABLE LEE WING-TAT

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE MARTIN LEE CHU-MING, S.C., J.P.

THE HONOURABLE ERIC LI KA-CHEUNG, J.P.
THE HONOURABLE LEE KAI-MING, S.B.S., J.P.

THE HONOURABLE FRED LI WAH-MING, J.P.

DR THE HONOURABLE LUI MING-WAH, J.P.

THE HONOURABLE NG LEUNG-SING

PROF THE HONOURABLE NG CHING-FAI

THE HONOURABLE MARGARET NG

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, J.P.

THE HONOURABLE RONALD ARCULLI, J.P.

THE HONOURABLE MA FUNG-KWOK

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE HUI CHEUNG-CHING

THE HONOURABLE CHAN KWOK-KEUNG

THE HONOURABLE CHAN YUEN-HAN

THE HONOURABLE BERNARD CHAN

THE HONOURABLE CHAN WING-CHAN

THE HONOURABLE CHAN KAM-LAM

DR THE HONOURABLE LEONG CHE-HUNG, J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, J.P.
THE HONOURABLE LEUNG YIU-CHUNG

THE HONOURABLE GARY CHENG KAI-NAM, J.P.

THE HONOURABLE SIN CHUNG-KAI

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

DR THE HONOURABLE PHILIP WONG YU-HONG

THE HONOURABLE WONG YUNG-KAN

THE HONOURABLE JASPER TSANG YOK-SING, J.P.

THE HONOURABLE HOWARD YOUNG, J.P.

DR THE HONOURABLE YEUNG SUM

THE HONOURABLE YEUNG YIU-CHUNG

THE HONOURABLE LAU KONG-WAH

THE HONOURABLE LAU WONG-FAT, G.B.S., J.P.

THE HONOURABLE MRS MIRIAM LAU KIN-YEE, J.P.

THE HONOURABLE AMBROSE LAU HON-CHUEN, J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE SZETO WAH

THE HONOURABLE TIMOTHY FOK TSUN-TING, S.B.S., J.P.

THE HONOURABLE LAW CHI-KWONG, J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.
THE HONOURABLE FUNG CHI-KIN

DR THE HONOURABLE TANG SIU-TONG, J.P.

MEMBERS ABSENT:

THE HONOURABLE MICHAEL HO MUN-KA

DR THE HONOURABLE DAVID LI KWOK-PO, J.P.

THE HONOURABLE CHRISTINE LOH

THE HONOURABLE LAU CHIN-SHEK, J.P.

THE HONOURABLE CHOI SO-YUK

THE HONOURABLE ANDREW CHENG KAR-FOO

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE MRS ANSON CHAN, G.B.M., J.P.
THE CHIEF SECRETARY FOR ADMINISTRATION

THE HONOURABLE DONALD TSANG YAM-KUEN, J.P.
THE FINANCIAL SECRETARY

THE HONOURABLE ELSIE LEUNG OI-SIE, J.P.
THE SECRETARY FOR JUSTICE

MR CHAU TAK-HAY, J.P.
SECRETARY FOR TRADE AND INDUSTRY

MR RAFAEL HUI SI-YAN, G.B.S., J.P.
SECRETARY FOR FINANCIAL SERVICES
MR JOSEPH WONG WING-PING, G.B.S., J.P.
SECRETARY FOR EDUCATION AND MANPOWER

MISS DENISE YUE CHUNG-YEE, J.P.
SECRETARY FOR THE TREASURY

MR STEPHEN IP SHU-KWAN, J.P.
SECRETARY FOR ECONOMIC SERVICES

MR RAYMOND WONG HUNG-CHIU, J.P.
SECRETARY FOR SECURITY

CLERKS IN ATTENDANCE:

MR RICKY FUNG CHOI-CHEUNG, J.P., SECRETARY GENERAL

MR LAW KAM-SANG, J.P., DEPUTY SECRETARY GENERAL

MR RAY CHAN YUM-MOU, ASSISTANT SECRETARY GENERAL
TABLED OF PAPERS

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

Subsidiary Legislation/Instruments

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Other Papers

- Report of the Bills Committee on Securities (Margin Financing) (Amendment) Bill 1999
- Report of the Bills Committee on Education (Amendment) Bill 1999

ORAL ANSWERS TO QUESTIONS


Introduction of Reverse Mortgage Schemes

1. MR TAM YIU-CHUNG (in Cantonese): Madam President, with regard to the introduction of reverse mortgage schemes as a retirement protection option, will the Government inform this Council whether:

   (a) it knows the countries in which reverse mortgage schemes are being operated, the mode of operation of such schemes, the participation rate of persons aged 65 or above, and the ages, family situations and financial positions of the participants, as well as their similarities; and
(b) it will examine the feasibility of introducing reverse mortgage schemes in Hong Kong and the matching measures required, including assessing the impact of such schemes on the structure of assets and liabilities of banks; if so, of the details; if not, of the reasons for that?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, please let me answer part (b) of the question first, and then part (a).

Regarding part (b), reverse mortgage refers to the business activity in which a person mortgages his owner-occupied property to secure a loan. The borrower is usually an elderly who owns the property he is occupying and mortgages it to the lender for a loan. The lender can be a financial institution or a bank, or any other institution or individual. A transaction can proceed once the borrower and lender have reached an agreement. To our knowledge, at present, no bank offers reverse mortgage schemes in Hong Kong.

From the financial services perspective, a reverse mortgage is a business activity in which the borrower converts future proceeds from the sale of property into immediate cash income. It is a private transaction between the borrowing and lending parties. As such, if an institution believes that there is a potential for reverse mortgage schemes in Hong Kong, it can study the feasibility of introducing such schemes and the matching measures required. To date, as far as policies on maintaining the stability of our financial system and promoting the overall development of our financial services are concerned, we do not see a need for the Administration to conduct such a study.

As in developing any new product, banks of course must have a clear understanding of the features of the product and the risks involved. In addition to evaluating the commercial implications of the new product, banks must ensure compliance with the requirements of the Banking Ordinance. For instance, they should note that unlike a traditional mortgage, which relies on the borrower's income as the main source of repayment, the repayment of a reverse mortgage may rely entirely on the proceeds from the sale of the mortgaged premises. Therefore, the banks, as lenders, may be exposed to higher risks in offering a reverse mortgage, and may need to establish effective risk management measures in introducing such a scheme.
Regarding part (a), as I have pointed out just now, at present, banks in Hong Kong do not offer reverse mortgage schemes. We do not have detailed information on the reverse mortgage schemes in foreign countries either.

According to information provided by the Hong Kong Monetary Authority (HKMA) and downloaded from the Internet, some financial institutions in the United States, Canada, the United Kingdom and Australia offer reverse mortgage schemes.

To join this kind of scheme, both the borrower and the property concerned usually must meet certain basic criteria. For example, the borrower should be above a specified age, possesses the ownership of the property and lives in it. As to the property, it should be of good quality, be able to maintain its value during the mortgage period and be relatively salable.

Upon reaching of an agreement by both parties, the lender may offer the borrower a loan in different forms, for example, a lump-sum, instalments released monthly or at regular intervals, or a line of credit. The size of the loan that an elderly mortgagor can obtain usually depends on the valuation of the owner-occupied property, his age, the interest rate level, and so on. The principal of the reverse mortgage together with interest and other service charges have to be repaid out of the sale proceeds of the property when the elderly mortgagor moves out permanently or disposes of the property, or passes away, or upon the maturity of the loan. If the successors of the elderly do not want to sell the property, they may repay the loan by other means.

MR TAM YIU-CHUNG (in Cantonese): Madam President, would the Secretary elucidate on the last sentence of the third paragraph: "To date, as far as policies on maintaining the stability of our financial services are concerned, we do not see a need for the Administration to conduct such a study." Are reverse mortgage schemes not useful, but even destructive, to maintaining or promoting the overall development of our financial services so that the Government does not conduct the study? Or is it that the Government will not carry out a study in the financial context but in the policy context?
SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I thank the Honourable TAM Yiu-chung for the supplementary question because it gives me an opportunity to explain further. Mainly since there is no such market in the financial and banking sector, and since such a scheme is not among those areas that catch most of the attention of the banks, it is not an item of priority study. In principle in respect of such mortgage schemes we can investigate further the possession of property by the elderly if we look at the matter from another angle, such as protection and welfare for the elderly, although we do not have sufficient detailed data in this regard. At present, the Housing Bureau holds the preliminary view that reverse mortgage schemes will not become a trend in Hong Kong as most elderly people will probably not have properties under their own name, and ownership will likely have been transferred to their successors, and so on. Our knowledge in this regard is not complete but if Members consider that a follow-up is necessary, I will be glad to look further into the position with the Housing Bureau and the Health and Welfare Bureau. I may also study the issue with the Elderly Commission. What I have said represents comments purely from the financial point of view.

MR LAW CHI-KWONG (in Cantonese): Madam President, according to the preliminary finding of the Secretary, there is no market for reverse mortgage schemes. Is this due purely to a lack of interest from the public or to structural problems, including problems in the secondary market, so that the development of such a market is stifled?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, although we do not have a very detailed understanding of the Hong Kong scene, according to the information we have on hand, the product is not commonplace overseas as it is mainly American; and in Europe such mortgages are not provided at all. In fact, the operation of such a business entails certain difficulties, such as cash flow problems, as they are different from conventional mortgages. First, as they are, conventional mortgage schemes hinge on the mortgagor's ability (which means income) to repay over an extended period of time while reverse mortgages, purely on the value of the property under mortgage. In reverse mortgage schemes, the time of recovery is unknown because banks cannot tell when the elderly owner will sell the property, when he or she will move out of it or pass away. So risk management in cash flow can be rather complicated. Second, a risk can arise from the property value, which may be become lower than the loan amount. Third, we understand that the
market for such schemes overseas is not big. Fourth, after the death of the elderly, successors may raise disputes or may query the right of the elderly, who was the borrower, to subject the property to a mortgage. In the light of the above reasons, reverse mortgage schemes are not very popular overseas. In Hong Kong, the present situation is that banks will fight for any chance to lend, especially at a time when they need to find ways to mobilize their capital. So in line with the view of the Housing Bureau, the main difficulty for the development of reverse mortgage schemes is, I believe, the title of the elderly to their properties and the habit of the elderly to live with their children. As I said a while ago, if Members consider that we should follow up on the protection of welfare for the elderly, I think the Government will be happy to consider so doing.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, I was glad to hear the Secretary indicate that the Government would be willing to follow up. The reality is that there are cases of the elderly being abused because they are worried about their twilight years, so they transfer their properties to their next generation while they are still alive and well. But in some cases, they are not well treated by their next generation. Both they and their next generation may even need to resort to court proceedings to resolve their disputes. Due to the ageing of our population and the changes that have since taken place in our economy, the elderly nowadays are unlike their counterparts after the war and they may own properties in their own name.

PRESIDENT (in Cantonese): Miss CHAN, what is your supplementary question?

MISS CHAN YUEN-HAN (in Cantonese): Madam President, in view of what I said, has the Government tried to motivate other Policy Bureaux to think along these lines?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, as I said in answering Mr TAM’s supplementary question, I would follow up with the relevant bureaux, that is, the Housing Bureau and the Health and Welfare Bureau. Before we decide on what to do next, we need to investigate into the present situation and collect more information.
MR SIN CHUNG-KAI (in Cantonese): Madam President, I would like to follow up on part (b) of the main reply regarding the market in the United States and Canada. Let me explain briefly. Only a small number of cities in the United States have multi-storey buildings; most are detached houses sold with the parcel of land on which they stand. Land prices there are rather high. A house may be worth very little after 20 or 30 years but the land stands at a high worth. Will the Secretary inform this Council of the proportion of mortgages in the United States, which involves multi-storey buildings? As most buildings in Hong Kong are multi-storeyed, it would be difficult to calculate the land premium of each flat when it is sold 20 or 30 years later in the secondary market. In view of this, should we refer to the mortgage market of multi-storey buildings in the United States?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, we do not have details for that here but if we need to follow up I believe we must study the experience in overseas countries. The idea of the Honourable Member should be one of our considerations.

MR ALBERT HO (in Cantonese): Madam President, Mr TAM raised a question about the reverse mortgage market. The Secretary said that such commercial activities exist in the United States. But I understand that in the United Kingdom and in Europe, there are similar activities as well, only that it is not mortgage but sale and purchase, that is, the residual value of the properties owned by the elderly. The elderly person will receive a lump sum first and he or she can reside in the property until he or she passes away, upon which the property will come under the possession of the buyer. If we want to develop this sort of market, we need to find out whether banks can provide this sort of mortgage. This is related to the nature of the question asked by Mr TAM, but not a case of reverse mortgages. Rather this is done through mortgages secured on the interests of the properties owned by the elderly after they have passed away. This applies mainly to those elderly persons without successors or children. People in this category aim at spending all their wealth while they are still alive. As far as the policies of the HKMA are concerned, will the Government inform this Council whether this is acceptable and whether this will affect the stability of the financial system?
PRESIDENT (in Cantonese): Mr HO, the thrust of the question is about "reverse mortgage schemes". The supplementary question raised by you appears to stray beyond the scope. Secretary, do you have any information for an answer?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I do not have additional information but I will try to tackle it. (Laughter) Indeed reverse mortgage schemes are commercial activities whereby the future value of properties is realized into immediate cash. Elderly owners may accomplish this through mortgages or other means; meanwhile they may still live in the properties or retain their title to them. The Honourable Miss CHAN Yuen-han mentioned a while ago that as the Hong Kong population ages and as changes take place in the community, more and more elderly people own properties. That in my view naturally means more business opportunities than what we have had over the last 20 years. In that case, I think banks in Hong Kong will not miss the opportunities for business. But when we discuss the possibility of the HKMA accepting the arrangement suggested by the Honourable Albert HO, a determining factor is risk management, including the host of problems listed by me in answering one of the supplementary questions. If these problems are properly managed, the HKMA will, I trust, not have the least intention to stifle such activities. Further consideration can be given only when in future such commercial activities do come into existence.

PRESIDENT (in Cantonese): Last supplementary.

MR TAM YIU-CHUNG (in Cantonese): Madam President, I thank the Secretary for indicating he would forward the issue of reverse mortgage schemes to the Housing Bureau and the Health and Welfare Bureau. But since banks in Hong Kong do not operate reverse mortgage schemes, which can be due to a lack of knowledge on the part of the banks about this business, will the Secretary inform this Council whether he will provide the relevant information to enhance the knowledge of the banks and financial institutions about this subject? Since the Secretary stressed that there must be effective risk management measures, will the Financial Services Bureau provide assistance in this respect?
SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, as I indicated in the main reply, if in future there is a demand for such commercial activities and if the activities give rise to risk management problems, the HKMA will be duty-bound to deal with them. I believe banks in Hong Kong are smart enough not to miss any business opportunities as far as business is done in compliance with risk management principles. If we have to follow up the matter or if more specific information is needed, we will not keep such information confidential. On the contrary, we will publicize the relevant information and the banks will surely receive it in due course.

Wastage of Native English-speaking Teachers

2. MR JAMES TIEN: Madam President, it was reported that about one sixth of the teachers employed under the Native English-speaking Teacher (NET) Scheme whose contracts will expire this year will not renew their contracts. In this connection, will the Government inform this Council:

(a) of the present number of NETs employed; the numbers of those whose contracts will expire this year and those who have indicated that they will not renew their contracts, and whether it knows the reasons for their not renewing the contracts;

(b) whether it has examined the correlation between the wastage of NETs and the recruitment procedure involved; and

(c) whether it has assessed if the effectiveness of the Scheme will be compromised by the wastage of NETs; and if so, of the details?

SECRETARY FOR EDUCATION AND MANPOWER: Madam President,

(a) At present, a total of 440 NETs are employed under the NET Scheme, of whom 307 will have their contracts expiring by the end of August this year. 205 out of these 307 NETs will renew their contracts and remain in office, whereas 77 will not renew their contracts due to personal reasons (for example, personal or domestic matters, planning to work overseas or in local tertiary institutions, their children having to return to their place of origin for schooling
and so on). Besides, 25 NETs will not have their contracts renewed because of failure to meet performance requirements set by their schools (for example, unable to handle classroom discipline properly and have difficulties in adapting to the local education and examination systems and so on).

(b) Under existing practice, the recruitment of NETs can be carried out by the schools themselves or by the Education Department (ED) on behalf of the schools. The ED places a lot of importance on the recruitment of NETs and invites a serving secondary school principal, an English subject panel chair and a NET to join the selection board with a view to selecting the right candidates for the job. Video tapes, pamphlets and information kits are given to applicants to familiarize them with the education system, and the working and living conditions in Hong Kong. Each applicant is also given a list containing the names of some 20 serving NETs so that they may seek from them further information about working in Hong Kong. Before signing employment contract, the applicant may also contact the school authorities for a better understanding of the working conditions, allocation of duties and so on. In addition, the contract commencement date for NETs has been advanced to 16 August from 1 September to allow time for them to attend an induction course and attend to all personal matters regarding their stay in Hong Kong before the school term begins. Since all NETs should have obtained information on Hong Kong as well as on their schools before their arrival in Hong Kong, and will have had the opportunity to attend an induction course before the school term begins, we believe that there is no correlation between the wastage of NETs and the recruitment procedure.

(c) I would like to point out that the vast majority of NETs are contract staff, recruited from overseas and are working in Hong Kong for the first time. There is no guarantee, nor do we expect, that they will stay in Hong Kong for a long time. Therefore, it is normal for some of them to return home upon expiry of their contract or on personal grounds. We will continue to recruit NETs of the right calibre to fill the vacancies. We believe that the overall effectiveness of the Scheme will not be affected by the departure of these NETs.
MR JAMES TIEN (in Cantonese): Madam President, in part (a) of the main reply the Secretary mentioned that 77 of the 307 NETs will not renew their contracts for personal reasons. But the examples of the so-called personal reasons cited by the Government are personal or domestic matters, or their children having to return to their home countries for schooling and so on. I would like to ask whether the Government has approached those 77 teachers who will leave soon to find out if they have chosen to leave because the curriculum of English language or the education system in Hong Kong has made it impossible for them to fulfill their aspirations in teaching? Has the Government conducted studies to find out the number of teachers who do not wish to renew their contracts for this reason?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the information about the non-renewal of contracts by those 77 teachers for various personal reasons as provided in part (a) of the main reply is collated from the answers given to the ED when the ED asked these teachers through their schools the reasons for their departure. The ED did not follow up in detail the individual reason of each of these teachers. It is basically their own decisions not to stay in Hong Kong for work any longer.

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

MR JAMES TIEN (in Cantonese): Madam President, the Secretary did not answer my supplementary question. I asked him how many teachers did not wish to renew their contracts because they were unsatisfied with the education system in Hong Kong? The Secretary may reply that he does not know, but if he does have such information, could he please let us know the figure?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the answer is that from the information obtainable from the schools, basically there is no such category.
PRESIDENT (in Cantonese): Members, nine Members have indicated their wish to ask a question. Will Members please be precise with their supplementary questions as far as possible so that more Members can ask their supplementary questions.

DR YEUNG SUM (in Cantonese): Madam President, as far as I understand it, some teachers feel that there is very little scope for development in the teaching of English language, say, by way of games, sports or extra-curricular activities, to encourage students to speak English more often because each teacher, who teaches over 40 students, has to mark students' homework and above all, to prepare the students for examinations. Can the ED conduct studies in this regard?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in fact, the ED has commissioned the Hong Kong Institute of Education to conduct a study on the effectiveness of the NET Scheme. According to the interim report submitted to us, NETs have, in many cases, improved students' English language proficiency, particularly in listening and articulation. The final report of the study will be available only at the end of this year. Just now Dr YEUNG said that some teachers feel that the education system in Hong Kong does not allow full play to their expertise. While it is surely possible for them to feel this way, there are teachers who said that working in Hong Kong gives them a strong sense of achievement. Anyhow, as I mentioned in the main reply, before they came to Hong Kong they should have knowledge of the education system in Hong Kong and should be aware that class size in Hong Kong is far bigger compared to that in their countries. Therefore, I think this is a question of adaptation on both sides.

MRS SELINA CHOW (in Cantonese): Madam President, irrespective of the reasons behind their departure, the fact is that over 100 NETs will leave. May I ask the Secretary if there are difficulties in recruiting new teachers to take over, and whether there are plans to revise the terms of employment or increase the intake of NETs to facilitate the fortification of English standard in Chinese-medium schools under the Scheme?
SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, we have no plans to revise the existing terms of employment which we consider to be still attractive. For example, we received over 800 applications in this year's recruitment exercise. 349 applicants whom we considered to be up to the general standard were invited for an interview. In other words, the figure has actually doubled our target intake of some 100 teachers. For this reason, we hold that there is no problem insofar as recruitment is concerned.

PRESIDENT (in Cantonese): Mrs Selina CHOW, which part of your supplementary question has not been answered?

MRS SELINA CHOW (in Cantonese): Madam President, the Secretary did not answer the part of my supplementary question on whether the number of recruits will be increased.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, at present, we have no plans to increase the number of NETs. We hope we would only consider our way forward when the findings of the report are available at the end of this year and after an overall assessment of the Scheme has been made.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, as far as I understand it, the NET Scheme is not that successful in some of the schools. I would like to ask the Secretary: If the school considers that the Scheme is not so much of a success, can the Administration allow flexibility for the school to use the resources concerned to recruit local English teachers to improve students' English language proficiency?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in fact, whether or not the Scheme is successful in a school very often depends on the support from the school itself, particularly from the headmaster and local teachers. As I said earlier on, an overall assessment of the Scheme will be conducted only at a later stage. But for the time being, since the
purpose of the NET Scheme is to provide students with a really English environment that encourages the use of English, we have no present plans to allow schools to use the resources concerned for the recruitment of local teachers.

MISS EMILY LAU (in Cantonese): Madam President, I wish to follow up the supplementary question raised by Mr YEUNG Yiu-chung. I would like to ask whether Hong Kong will have plans to train locals to be capable English teachers in the long run, or has the Administration actually given up training local teachers, so NETs will be recruited to teach our students English in future?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in fact, when the NET Scheme was launched, we already explained that it was a five-year scheme. Other than the interim study, and as I said just now, an overall review will be conducted at the end of this year. So, no decision has yet been reached on whether it will be a long-term scheme. Surely it is our long-term target to improve the language proficiency of local teachers, particularly that of English teachers. In this connection, we have actually done a lot of work. We will, among other things, announce in the near future, or possibly next month, the introduction of language benchmarks for English teachers, requiring all new or serving teachers to attain standards equivalent to these benchmarks. I fully agree that in the long term, we have to ensure that local teachers must reach the requisite standard of language proficiency in teaching our students.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, it is very difficult to recruit English teachers from overseas areas so far away. Recruiting them to Hong Kong and then seeing them leave is so regrettable. Regarding these teachers who are about to leave, I would like to ask the Secretary whether the Government will try to understand the real reasons behind their departure? Is it because of the adverse teaching environment in Hong Kong with too big a class size and too many lessons, or is it because they feel that they cannot give full play to their expertise? If we do not try to understand or figure out the real reasons for their departure, there will be more and more of these teachers leaving no matter how many more of them are recruited. Will the Secretary try to understand and carefully look into the reasons for their departure?
SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, as I said in the main reply, these teachers are employed on a two-year contract and are recruited from overseas. So, it is understandable for some of them to leave upon expiry of their contracts. From views reflected through other channels, including the press and schools, some NETs do feel that their work in Hong Kong has fallen short of their expectations, or some of them have encountered difficulties in their work. In fact, we have done something in these two aspects. First, regular meetings are held between the ED and the expatriate English teachers’ association to discuss and study ways to resolve the problems encountered. Moreover, a counselling and support group made up of NETs has been set up under the auspices of the ED. Its purpose is to provide assistance for expatriate teachers who cannot adapt to the local education system or the teaching methodology, so that they will be able to play their roles more easily. Ongoing efforts will be made in this regard.

On the need to understand the reasons for the impending departure of the expatriate teachers, I will put on record the relevant views and pass them to the ED to see if it is possible to obtain more understanding of the situation through the existing avenues, including regular meetings with the expatriate English teachers' association.

MISS CYD HO (in Cantonese): Madam President, in part (a) of the main reply the Secretary stated that 25 NETs will not have their contracts renewed because of failure to meet performance requirements set by their schools. He went on to cite examples such as the NETs not being able to handle classroom discipline and having difficulties in adapting to the local education and examination systems, and so on. I would like to ask insofar as their performance in improving students' English language proficiency is concerned, was there any problem with those 25 NETs who will not have their contracts renewed? If not, and if they only failed to meet the requirements set by their schools, I would like to know whether the ED has given briefings to the schools on how to accept or provide support for the NETs when granting permission to the schools to recruit NETs?
SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, those 25 NETs would not have their contracts renewed by their schools. The ED will not intervene in this employer-employee relationship of the schools vis-a-vis the teachers. That said, we would like to know the practical situation. As I said just now, I also hope that the ED will obtain an in-depth understanding of the situation from the schools concerned and the expatriate English teachers’ association. However, I think it is inevitable that the schools must comply with the local education or examination systems. Having worked in Hong Kong for a period of time, some expatriate teachers may encounter difficulties in adaptation, resulting in the failure to meet the requirements of their schools. It is possible for such a situation to arise.

PRESIDENT (in Cantonese): We have spent over 17 minutes on this question. We shall now move onto the third question.

School-based Management

3. MR YEUNG YIU-CHUNG (in Cantonese): Madam President, the Government’s goal is to have school-based management implemented in all schools by 2000. In this connection, will the Government inform this Council of:

(a) the respective numbers of schools which have implemented or will have implemented school-based management by the end of the last, current and next school years and their respective percentages in the total number of schools in Hong Kong in each school year, and provide a breakdown of such numbers and percentages by government and aided schools as well as primary and secondary schools;

(b) the experience gained and the difficulties encountered in the implementation of school-based management; and

(c) the specific measures to expedite the implementation of school-based management in schools?
SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):

Madam President,

(a) As at the 1998-99 school year, a total of 362 government and aided schools have participated in the School Management Initiative for the implementation of school-based management. A breakdown of the numbers and percentages of these schools by type is as follows:

<table>
<thead>
<tr>
<th></th>
<th>Government secondary schools</th>
<th>Government primary schools</th>
<th>Aided secondary schools</th>
<th>Aided primary schools</th>
<th>Special schools</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998-99</td>
<td>37 (100%)</td>
<td>45 (100%)</td>
<td>111 (33%)</td>
<td>151 (22%)</td>
<td>18 (26%)</td>
</tr>
</tbody>
</table>

In January 1999, the Education Department (ED), in accordance with the recommendations set out in the Education Commission Report No. 7, required all government and aided schools to implement school-based management by the end of 2000. The key features of school-based management include: (a) submission of an annual school report from the 1998-99 school year onwards; (b) submission of an annual school plan and a school profile from the 1999-2000 school year onwards; (c) formulation of a School Management Committee Constitution to allow participation of teachers, parents and alumni in decision-making; (d) establishment of a proper performance appraisal system and provision of necessary resources to facilitate the professional development of teachers. Thus, all government and aided schools have implemented school-based management geared to their own circumstances and at their own pace since the 1999-2000 school year.

(b) The experience gained and the difficulties encountered in the implementation of school-based management include:

(1) Some school-sponsoring bodies have expressed reservations about including representatives of parents, teachers and alumni in the school management committees, and are worried that the mission and development of the schools would be affected as a result.
(2) Schools have asked for greater flexibility in the deployment of resources.

(3) Principals and teachers considered that support from the ED should be strengthened.

(4) Some principals and teachers were of the view that the additional clerical work arising from school-based management had added to their workload and affected their teaching duties.

(c) In the light of the experience gained in the implementation of school-based management, the ED will introduce the following specific measures to expedite the process:

(1) The Advisory Committee on School-based Management (ACSBM) published a consultation document on 28 February, 2000 to solicit views from various sectors of the community on its recommendations on the management and accountability of aided schools. The consultation period will last until 30 April. The consultation document will enhance public understanding of school-based management and hence accelerate the pace of its implementation.

(2) The ACSBM will, in due course, make recommendations on the funding and management arrangements of schools so as to increase their flexibility and accountability in the deployment of resources.

(3) The ED will step up its provision of suitable training programmes for principals and school managers to enable them to provide more effective leadership to schools in implementing school-based management.

(4) From the current school year onwards, each school will be provided with more than a hundred thousand dollars of supplementary grant to deal with the additional administrative work resulting from the implementation of school-based management.
(5) The ED has recently commissioned a consultancy study on the work process of schools to find out ways to cut unnecessary duties, streamline working procedures and set proper priorities of work to help reduce the workload of teachers.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, from part (a) of the main reply, we can see that in the 1998-99 school year, the proportion of aided schools which have implemented school-based management is really very small as it is less than one third of the total number of aided schools. However, in the last part of the same paragraph of the main reply, the Secretary makes a volte-face and says that from the 1999-2000 school year onwards, all schools have started to implement school-based management. I would like to ask the Secretary how can the Government verify that school-based management has indeed been implemented; or whether it will just assume that the schools have already implemented school-based management when they claim to have done so?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, actually, I have pointed out in part (a) of the main reply that all government and aided schools will implement school-based management in accordance with their own circumstances and at their own pace. In other words, some schools may have made more progress, and in addition to the submission of annual school plans, these schools may have already established performance appraisal systems and formulated School Management Committee Constitutions, while other schools may not have yet done so. Therefore, though all schools may have embarked on school-based management, the actual progress varies from school to school.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, the Secretary has not yet answered my supplementary question. I would like to know whether there is a verification system? And, how does this system work?
SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I do not quite understand what is meant by a verification system.

PRESIDENT (in Cantonese): Mr YEUNG, could you please elaborate on your supplementary question.

MR YEUNG YIU-CHUNG (in Cantonese): Madam President, schools may claim that school-based management has already been implemented, but has the Government verified whether this is true? By asking whether there is a verification system, I mean whether there have been criteria laid down to determine school-based management has actually been implemented or otherwise? Will the Government conduct a verification process on whether school-based management has actually been implemented?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, first of all, school-based management is an ideology; secondly, it involves a varying degree of paces and progresses. That is why I do not think that we should gauge whether a school has implemented school-based management or not by requiring it to meet certain criteria. As regards the progress of this programme, I have got some information at hand for Mr YEUNG’S reference. In the year of 1998-99, half of the aided schools have already submitted annual school reports; in 1999-2000, 80% of the aided schools have submitted annual school plans and 25% have submitted school profiles; and over 95% of the schools have pledged to formulate School Management Committee Constitutions by the next school year. Therefore, we are of the view that as long as they have embarked on school-based management, then it will no longer be our responsibilities as to whether or not they can fulfil their pledges. Our main task is to further push them to move faster towards the ultimate goal. As I have just mentioned, we have issued a consultation document on 28 February 2000 and the final outcome of this exercise should be reflected in the specific contents of our amendments to the Education Ordinance.
MR AMBROSE LAU (in Cantonese): Madam President, the Secretary has talked about the experience gained and difficulties encountered in the implementation of school-based management in part (b) of the main reply. He said the first difficulty encountered was that some school-sponsoring bodies have expressed reservations about including representatives of parents, teachers and alumni in school management committees, and were worried that the mission and development of the schools would be affected as a result. I would like to know what specific measures will be taken by the Government to solve these problems?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the inclusion of the representatives of parents, teachers and alumni in school management committees, is in fact, a specific recommendation of the ACSBM. It is true that some school-sponsoring bodies have expressed reservations about this recommendation, but at this point, we are of the view that most members of the education sector opined that if school-based management is to be implemented, all parties concerned, especially teachers and parents should be represented in school management committees. Our current practice is, during the consultation period, we will contact school-sponsoring bodies which have reservations and will try our best to explain to them the rationale behind this recommendation. It is hoped that through further explanations and consultations, these school-sponsoring bodies can understand that the inclusion of teachers and parents representatives in school management committee is actually in line with the spirit of school-based management, that it is beneficial to schools and will not interfere with their missions.

MR CHAN KWOK-KEUNG (in Cantonese): Madam President, the fact that the ED has promoted school-based management is equivalent to contracting out part of its management work. I would like to know the extent of manpower resources saved through the implementation of school-based management? And, will the manpower resources thus saved become redundant?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I do not think that the implementation of school-based management by the ED is equivalent to contracting out its job. In fact, the
rationale behind the implementation of school-based management is to accord more powers and responsibilities for the schools to carry out education-related tasks, and to ask them to be more accountable. If Members are interested, they can take a look at Appendix C of the consultation document which listed the new functions and terms of office of the ED, school-sponsoring bodies and school management committees. As regards whether the manpower resources of the ED could have been saved at a certain stage following the actual implementation of school-based management, especially after changes like replacing the categorization of resources by a one-line vote, I believe the results will not be known until later. I really cannot provide an answer at this moment.

DR TANG SIU-TONG (in Cantonese): Madam President, school-based management offers the schools greater flexibility in the deployment of resources. I would like to ask the Secretary who would be held responsible if mistakes are being made in the deployment of resources? Will school management committees be held responsible, or will the Government act as an "underwriter"?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, in fact, this is exactly the spirit of school-based management. If we are to accord the schools with greater flexibility in the use of funds, they will certainly be given more specific guidelines. If they violate the guidelines by using the funds on areas other than those which meet with the allocation criteria, the school management committee concerned will certainly be held responsible.

MR CHAN KAM-LAM (in Cantonese): Madam President, it was said in the main reply that schools have to submit annual school reports, and each school will be provided with more than a hundred thousand dollars of supplementary grant to deal with the additional administrative work resulting from the implementation of school-based management. Will the Secretary inform this Council how much additional manpower resources will be required in the various sections of the ED to study the annual school reports as a result of this programme? And, what is the cost to be incurred?
SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the Government has not specially provided the ED with any additional funding in relation to the submission of annual school reports because we believe that these are the regular duties of the ED.

MR CHEUNG MAN-KWONG (in Cantonese): Madam President, as regards the participation rate for the school-based management programme, government schools achieved the best results with 100%, while the results for aided secondary and primary schools and special schools are not so favourable. One of the reasons is that some school-sponsoring bodies have expressed reservations about the inclusion of parents, teachers and alumni representatives in school management committees. Will the Government continue to tolerate this situation or does it think that it is acceptable for some school-sponsoring bodies to continue barring parents, teachers and alumni representatives from school management committees? Will the Government strive to include representatives of all those who have a part to play within the school in the school management committees in order to implement school-based management?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, just as I mentioned in my response to an earlier supplementary question, we have already made some specific recommendations on the composition of school management committees in our recently published consultation document. Through the consultation exercise, we hope to convince school-sponsoring bodies to accept that the inclusion of parent and teachers representatives will be beneficial to their schools. And, upon the completion of the consultative exercise and after views have been collected, surely we will have to make a decision eventually. Moreover, as the composition of school management committees is a very important matter, their final composition, including other correspondingly measures that should be introduced in relation to school-based management, will all be reflected in the proposed amendments to the Education Ordinance. Therefore, in the future, Members of the Legislative Council will have an opportunity to scrutinize our final recommendations on school-based management, including the composition of school management committees.
MISS EMILY LAU (in Cantonese): Madam President, I would also like to ask a question on the composition of school management committees. The Secretary said some school-sponsoring bodies have raised objections against the inclusion of representatives of parents, teachers, and alumni, for they are worried that the mission and the development of schools would be affected as a result. I would like to ask the Secretary whether such school-sponsoring bodies have submitted any evidence to prove that the inclusion of representatives of alumni, parents and teachers will have such an effect? Do they think that these people have joined school management committees with the intention of making troubles?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): The consultation period has not yet expired, but unlike what Miss Emily LAU has said, according to the opinions which we have received so far, no specific evidences or cases have been provided to prove that the reservations or worries expressed by school-sponsoring bodies are really very serious concerns. As I have repeatedly stressed, I hope more people can voice their opinions during the consultation process, so that the importance of the composition of school management committees can be positively shown, and that representatives of teachers and parents can be seen to be extremely important to the composition of school management committees.

PRESIDENT (in Cantonese): Miss CHOY So-yuk informed me earlier that she would not be able to return to Hong Kong in time for today’s meeting, so Mr David CHU will ask the fourth question on behalf of Miss CHOY So-yuk.

Competition Faced by Local Container Port Business

4. MR DAVID CHU (in Cantonese): Madam President, it was reported that, in order to enhance the competitiveness of its freight transport industry, the mainland authorities plan to restructure and consolidate the administrative work and business development of nine ports, namely Shekou, Chiwan, Mawan, Dongtoujiao and Huangtian and so on, in the western part of Shenzhen. In this connection, will the Government inform this Council:
(a) whether it has assessed the impact of the above-mentioned plan on the container transport industry of Hong Kong; if it has, of the results; if it has not, of the reasons for it;

(b) of the measures it will adopt to assist the container transport industry of Hong Kong in facing up to the challenge; and

(c) whether it will, in view of the mainland authorities' plan, adjust the timetable for the development of container terminals in Hong Kong?

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, my thanks to Miss CHOY So-yuk for her question. I will be grateful if the Honourable David CHU can relay my main reply to Miss CHOY.

(a) At present, the major container terminals in Shenzhen include the Yantian Container Terminal in the east and the Shekou Container Terminal and Chiwan Kaifeng Container Terminal located in the west of Shenzhen. We understand that the restructuring of the management of ports in the western part of Shenzhen is a commercial decision to improve operational efficiency which largely involves changes in management contracts and transfer of equities in respect of the container terminals in Shekou and Chiwan Kaifeng. Similarly, container terminal operators of Hong Kong have taken various measures to enhance their efficiencies. According to the latest estimates of the Hong Kong Port and Maritime Board, Hong Kong handled 16.11 million TEUs in 1999 which represents a growth of 10% as compared to that of 1998 and confirms Hong Kong's position as the busiest container port in the world. The number of containers handled by Shenzhen in the same period was 2.98 million TEUs. These figures indicate that freight volumes in South China were growing fast which benefit both Hong Kong and Shenzhen.

The Hong Kong Port and Maritime Board will commission a study to update the Port Cargo Forecasts. The study will take a fresh look at the trend of the key factors affecting cargo generation, cargo handling and cargo routing. It will also assess the development of the Shenzhen and Hong Kong ports and their interaction. The study is scheduled to commence in April and complete in late 2000.
(b) To enhance the competitiveness of our container terminals and container transport industry, a Sub-committee on Container Port Competitiveness has been set up under the Hong Kong Port and Maritime Board to study and devise measures to make our port more competitive.

The Sub-committee has recommended a series of short-term and long-term measures for enhancing the competitiveness of our port. These measures are being implemented gradually and are progressing well. For instance, the tendering exercise for the construction of Container Terminal 9 (CT9) has already been completed and works are expected to commence in May. Among other works, the Rambler Channel will be dredged to a depth of 15.5 m to allow the terminal to handle a new generation of large container vessels. Upon its completion in 2004, six additional berths with a handling capacity of more than 2.6 million TEUs will be provided. Various ancillary road works, including the construction of the Duplicate Tsing Yi South Bridge, are underway. Besides, measures have been undertaken to improve boundary crossing of container trucks so as to smooth the way for the transportation of cargo to and from container ports. These measures include the addition of 10 new inspection kiosks, designation of special lanes for empty container trucks and implementation of boundary crossing management measures. In addition, the Customs and Excise Department will implement a pre-clearance system at the end of this month which will reduce customs clearing time. These measures will reduce queueing time of trucks at the boundary crossings and hence lowering the operation costs of the transportation industry.

Apart from raising the efficiency of land freight transport, the Government has been actively encouraging, over the past few years, the development of the more cost-effective river trade, such as development of the Tuen Mun River Trade Terminal. To further expand our cargo hinterland, the Second Railway Development Study is being conducted to examine the feasibility of constructing a container port rail line.
To develop further measures to improve the efficiency of existing facilities, we are conducting a port backup facilities and land requirement study and a study on developing Hong Kong into a replenishment port for fuels and materials to give greater support to the industry.

The difference between the total costs of shipping cargoes through Hong Kong and Shenzhen has been narrowing recently. If barges are used to ship containers from places like Zhongshan and Zhuhai to Hong Kong for export, the transportation cost will be lower than taking the containers by truck to and exporting through Shenzhen port.

(c) The fundamental policy of Hong Kong port development is to match supply to port facilities with demand for their use. We have in place an ongoing mechanism for updating and reviewing our port cargo forecasts every two to three years to assist in assessing the requirements for new port facilities. According to the latest information, when CT9 is fully completed in 2004, the aggregate capacities of Container Terminals 1 to 9 together with those known development plans of Shenzhen container terminals will be able to handle the demand for container terminal facilities in South China for the next decade.

The Port and Maritime Board will commission a study on Port Cargo Forecasts this year which will assess various factors affecting the cargo transport industry including the development of the Hong Kong and Shenzhen ports and their interaction. Concurrently, the Planning Department will launch a Port Development Strategy Review in mid-2000. The review will translate the projected cargo throughput into demand for port facilities including the timetable for development of new container terminal facilities.

MR DAVID CHU (in Cantonese): Madam President, as reported, the Shenzhen Municipality is now making preparations to co-operate with Hong Kong in the construction of a cross-boundary bridge stretching from Shekou to the western part of Hong Kong. As this bridge will have enormous impact on the transportation industry, can the Government inform this Council of the details of this construction project?
PRESIDENT (in Cantonese): Mr David CHU, I am afraid that the bridge you have mentioned may not be related in any way to the main question.

MR DAVID CHU (in Cantonese): I do not agree, because the bridge in question may well be used for container transportation between Hong Kong and Shekou. That is why this bridge will certainly affect the container transportation industry to a certain extent.

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): Madam President, I am no expert as far as the bridge is concerned. I have to consult the relevant Secretaries first, and I shall submit a written reply to Mr David CHU later on. (Annex I)

MR KENNETH TING (in Cantonese): Madam President, in the third paragraph of part (b) of the main reply, the Secretary says that the Government is currently conducting the Second Railway Development Study to examine the feasibility of constructing a container port rail line. May I know when the Study will be completed? And, will the land freight transport in northwestern China be included in the Study?

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): My thanks to the Honourable Kenneth TING for this question. Our main object in conducting the Study is to further expand our cargo hinterland. As mentioned by Mr TING in his question, we do hope to expand our cargo hinterland to northwestern China and places outside Guangdong such as Guangxi and many others. The Government is currently conducting the Second Railway Development Study to examine the feasibility of constructing a container port rail line. The Study is expected to be completed in the middle of this year. Early this year, the Chairman of the Kowloon-Canton Railway Corporation (KCRC) also disclosed that the Corporation was planning to construct some rail extensions designed basically for container transportation. The KCRC is conducting a feasibility study on this. Besides, the KCRC also intends to establish a huge logistics centre in Pinghu, Shenzhen, where goods moving into and out of northern and southwestern China can be assembled in containers, stored and distributed.
MR FUNG CHI-KIN (in Cantonese): Madam President, the statistics supplied by the Secretary reveal that in 1999, Hong Kong and Shenzhen handled a combined total of 20 million TEUs, at a ratio of 5.4 to 1. And, four years later, the completion of CT9 will give us an extra handling capacity of 2.6 million TEUs only. But then, the Secretary went on to say that the aggregate capacity of all our container terminals, together with the capacity of Shenzhen container terminals, should be able to handle the demand for container terminal facilities in South China for the next 10 years. May I therefore ask the Secretary this question: How quickly will the handling capacity of Shenzhen increase, given the competition from Hong Kong? What will be the ratio between us and Shenzhen?

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): As I mentioned in the main reply, we will commission a study to update the Port Cargo Forecasts in April this year. The study will look at our demand for port facilities and growth in freight volumes in the coming one year. We will also communicate with Shenzhen and neighbouring ports to assess their development plans and the resultant increases in their handling capacity. Actually, we have been conducting similar studies at intervals of two to three years, so as to ensure that we have the most up-to-date information. I said a moment ago that the facilities under the existing development plans should be able to meet the demand for the next 10 years. The reason for this is very simple: When CT9 is completed in 2004, six additional berths with a handling capacity of at least 2.6 million TEUs will be provided.

Moreover, I must also say that our container terminal operators are indeed very aggressive. In particular, because of technological support, they have been able to increase their efficiency every year, which is why there have been increases in their handling capacity every year. In addition, as I mentioned just now, we also intend to provide more backup lands to these operators, so as to enhance their operational efficiency. Therefore, we are confident that by the year 2010, we will have adequate facilities. The Honourable FUNG Chi-kin is concerned about things like the facilities of Shenzhen. As I said just now, Shenzhen handled about 2.9 million TEUs last year, and its actual handling capacity should be some 4 million TEUs. Naturally, Shenzhen also plans to increase its facilities, and it intends to increase
its capacity to about 4.8 million TEUs. But what is most important is that we are going to have CT9, and we will also seek to enhance our operational efficiency, adding to this the Port Cargo Forecasts conducted at intervals of two to three years. All this can ensure that we will have adequate facilities to meet future demand.

PRESIDENT (in Cantonese): Mr FUNG, which part of your supplementary question has not been answered.

MR FUNG CHI-KIN (in Cantonese): The Secretary has not answered this part of my question: What does he expect to be the ratio between us and Shenzhen in terms of handling capacity in 10 years' time? Still 5.4 to 1, or 1 to 1?

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): I think the relevant figures are very simple. Last year, for example, we handled more than 16 million TEUs, and as I said just now, our container terminal operators will increase their efficiency every year. Besides, the completion of CT9 will give us an extra handling capacity of at least 2.6 million TEUs. That is why I believe that our handling capacity will certainly exceed 19 million TEUs. As for Shenzhen, its handling capacity will be about 9 million TEUs.

MRS MIRIAM LAU (in Cantonese): Madam President, I also wish to ask a supplementary question on the container port rail line. Several years ago, when the Government put forward the West Rail project, one of the proposals was to construct a railway extension running into the container port terminals direct. But in the end, the proposal was dropped, because the Government and many other relevant authorities had reservations about the freight volumes projected by the consultants, and different consultants also made different forecasts about our freight volumes. May I ask the Secretary what criteria are adopted by the Government when it conducts feasibility studies on railway construction? Is cost efficiency considered? Actually, there is now already a rail line running direct to the container terminal of Shenzhen, but it has not been brought into full play. In the relevant feasibility study, will this factor be considered as well?
SECRETARY FOR ECONOMIC SERVICES (in Cantonese): I am no expert in railway issues, but I will still try to answer this question. If I cannot provide enough information, I will ask my colleagues to give a further reply in writing.

In our study, our future freight volumes are certainly one of the main considerations. As I said just now, we wish especially to expand our cargo hinterland to cover other provinces, and we also hope that goods from these provinces can be transported to Hong Kong by rail. For example, the KCRC now has a plan to construct a rail extension to the container terminals in Kwai Chung via Tai Wai. And, as I said just now, in order to tie in with this rail extension, the KCRC also plans to set up a large scale logistics centre in Pinghu, Shenzhen where goods can be assembled in containers, stored and distributed. In our feasibility study, we certainly have to consider and project the growth in freight volumes in neighbouring provinces, and we also have to forecast the volumes of goods to be transported to Hong Kong and the relevant cost efficiency. I am afraid I am unable to give any further details now, and I shall give a written reply to the Honourable Mrs Miriam LAU later. (Annex II)

PRESIDENT (in Cantonese): Last supplementary.

DR RAYMOND HO (in Cantonese): Madam President, the Secretary said that we would be able to meet the freight transport demand for the next 10 years. Under the original plan, lands are reserved for the construction of Container Terminals 10 to 17. May I ask the Secretary whether there is any need to review the necessity of this plan? Or, does the Secretary think that this plan should be revised?

SECRETARY FOR ECONOMIC SERVICES (in Cantonese): I must say that we should not look only at the next 10 years, and I think we should look much farther than that. I was not saying that after the completion of CT9, there would be no further need for any new container terminal. What I meant is that following the completion of CT9, and barring any changes in circumstances, we
will have adequate facilities to cope with demands until the year 2010. And, I also added that we would conduct a detailed Port Cargo Forecast once every two years. This means that two years from now, when we conduct another Port Cargo Forecast, we will be able to know whether there are any changes in circumstances, and whether the facilities completed by then can cope with demand until 2010. We will continue to do this, because it is very important for us to make sure that we can have adequate facilities to cope with future demand.

As for the future development of container terminals, such as Container Terminals 10 and 11, Members may also be aware that under the original plan, they would be constructed on Lantau Island. But since Lantau Island has now been chosen as the site for the Disney theme park, we have decided that we should first conduct a Port Cargo Forecast in April (which is expected to be completed before the end of this year), and then look further into the situation before identifying other sites. As Members may also know, it will take at least five years to construct a new container terminal, which is why we must plan well in advance, ascertaining in good time when needs will arise and then choose a suitable site. Our plan is to conduct a study immediately after the completion of the Port Cargo Forecast, so as to find out which sites other than those on Lantau Island are suitable for the construction of container terminals. I think we should still have enough time for that. To Dr the Honourable Raymond HO’s question, my answer is that we must wait until the completion of the study before we can decide when to construct Container Terminal 10 or 11.

PRESIDENT (in Cantonese): We have spent more than 19 minutes on this question. We will proceed to the fifth question.

Regulation for Safe Use of Oxy-acetylene Welding Equipment

5. DR RAYMOND HO (in Cantonese): Madam President, in connection with the recent chain of incidents involving leakages or explosions of oxy-acetylene welding equipment, which resulted in a number of casualties, will the Government inform this Council:
(a) of the reasons for the absence of any legislation to govern the safety of such welding equipment;

(b) whether it has plans to introduce such legislation which provides, inter alia, that workers using this kind of welding equipment should have passed tests and possess certificates; and to entrust the Electrical and Mechanical Services Department with the responsibility for enforcing the law and monitoring the safe use of this kind of welding equipment; and

(c) of the measures in place to remind employers and workers on the safety issues regarding the use of this kind of welding equipment, such as regular maintenance of the equipment and replacement of pipes?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese):

Madam President,

(a) Although there is no legislation which governs specifically the safety of gas welding equipment, under the Factories and Industrial Undertakings Ordinance (Cap. 59), when a proprietor deploys his employees to use any kind of equipment, including gas welding equipment, he has to ensure that these workers have received the necessary training and that the working environment is safe.

Specific regulations made under the Ordinance such as the Factories and Industrial Undertakings Regulations, the Factories and Industrial Undertakings (Fire Precautions in Notifiable Workplaces) Regulations and the Factories and Industrial Undertakings (Protection of Eyes) Regulations cover the health risk of fumes emitted during gas welding, fire risks, and risk of eye injury.

The Occupational Safety and Health Ordinance (Cap. 509) imposes general duties on every employer to ensure, so far as is reasonably practicable, the safety and health of employees when they are at work. The Ordinance empowers the Commissioner for Labour to (i) serve improvement notices on an employer, if he is of the opinion that the employer has contravened the Factories and Industrial Undertakings Ordinance or the Occupational Safety and Health Ordinance; and (ii) issue suspension notices to employers if he is of
the opinion that there is an imminent risk of death or serious bodily injury in the workplace.

In addition, compressed oxygen gas and dissolved acetylene gas are classified as Category 2 dangerous goods. Any person who wishes to store more than two oxygen cylinders or acetylene cylinders is required to obtain a licence from the Fire Services Department (FSD). The Dangerous Goods Ordinance (Cap. 295) also provides that any cylinder used for storing such gases is required to be examined and approved by the FSD, for compliance with safety standards for the cylinder body-work and cylinder main valves.

(b) The Commissioner for Labour plans to introduce under the Factories and Industrial Undertakings Ordinance a new regulation to require workers engaged in gas welding to undergo mandatory safety training and obtain a relevant certificate. The proposed mandatory training will focus on the safety precautions to be taken in gas welding. We have consulted a number of employers' associations and workers' unions engaged in trades which involve gas welding and they support the proposal in principle. We aim to introduce the new legislation before the Legislative Council by year-end.

Safety and health at work is regulated by the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance, which are enforced by the Labour Department. We consider that the Labour Department should continue to be the enforcement authority. We therefore have no plan to entrust responsibility for enforcing the law and monitoring the safe use of gas welding equipment to the Electrical and Mechanical Services Department.

(c) Occupational Safety Officers of the Labour Department advise proprietors and contractors on the safe use and proper maintenance of gas welding equipment during their routine inspections of industrial undertakings. They will issue warnings, improvement notices and suspension notices, or take out prosecutions whenever unsafe use of gas welding equipment is observed.
Following the explosion in Yuen Long on 12 February 2000, the Labour Department, in conjunction with the FSD, has launched a territory-wide inspection campaign to maintenance depots of construction companies, heavy equipment/maintenance workshops, dealers of heavy metal plates, shipyards, garages and construction sites using gas welding equipment. The campaign is targeted at fire risks and storage problems associated with gas welding. Up to 7 March 2000, 792 warnings, 51 improvement notices and three suspension notices have been issued by Occupational Safety Officers of the Labour Department. They have also taken out 53 prosecutions, three of which are directly related to gas welding. The Labour Department will continue with their stringent enforcement action to ensure the safe use of gas welding equipment.

The Labour Department has also published a number of guidebooks and leaflets on the proper use and maintenance of gas welding equipment. The latest guidebook was published in 1999 and entitled "A Guide to Safety and Health at Work for Gas Welding and Flame Cutting". The Labour Department is revising this guidebook to include a number of technical details and plans to upgrade it to a Code of Practice. The Commissioner for Labour intends to publish this Code by June, after consulting the views and comments of relevant trade associations, workers' unions, organizations of safety and health professionals, professional bodies and training institutions.

**DR RAYMOND HO** (in Cantonese): Madam President, the Secretary for Education and Manpower has pointed out that the Commissioner for Labour plans to upgrade the current guidebook on the use of oxy-acetylene cylinders into a Code of Practice with legal effect. However, this Code cannot be published until June since consultation has to be made. Now there are still a few months before June, would the Secretary tell us how similar accidents can be prevented in the meantime, especially with regard to those sites where safety officers are not required?
SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I have mentioned in the main reply that following the tragic event in February, the Labour Department has launched a territory-wide inspection campaign in conjunction with the FSD to remind proprietors and contractors in sites which use gas welding equipment to pay more attention to the occupational safety and health of the workers. Honourable Members can also see that we have taken direct enforcement actions such as the issue of improvement notices and suspension notices and so on.

Even if we need to wait for a few months before this guidebook can be upgraded into a Code of Practice, the guidebook which I have in my hands now was only compiled last year. It gives details on safety matters which should be attended to when undertaking gas welding and flame cutting work. In the meantime, we will continue with the publicity and promotion of this guidebook in the hope of making more employers and workers use it as a reference and comply with its suggestions even though it has not yet been upgraded into a Code of Practice with legal effect.

MR CHAN WING-CHAN (in Cantonese): Madam President, part (a) of the main reply points out that any person who wishes to store more than two oxygen cylinders or acetylene cylinders is required to obtain a licence from the FSD; the law also stipulates that any cylinder used for storing such gases is required to be examined and approved by the FSD. In general, a workplace or construction site usually stores five or six oxy-acetylene cylinders, but there were more than 80 of such cylinders on the site in Yuen Long where the explosion took place. Why was it possible for that site to have stored more than 80 such cylinders? Would the Government inform this Council how it is going to prevent similar incidents of excessive storage of gas cylinders from recurring, so as to protect the lives of the public and the workers?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, I will answer this supplementary question in two parts. The first part is about the incident in Yuen Long. The report of our investigations into this accident should be available in April. The report will include such details as the legality of the storage of those cylinders as mentioned by the Honourable Member. So I would not give a reply in respect of this specific incident now.
On the question of the existing requirements in law that not more than two gas cylinders can be stored, in our recent inspection campaign, we discovered that some places might have violated this requirement and the cases have been referred to the FSD for follow-up action. I would not rule out the possibility that when the report is available, we would make further contacts with the FSD to look into the matter to see if any measures should be enhanced in this regard.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, would the Secretary tell us whether he has any plans to require the Occupational Safety Officers of the Labour Department to inspect sites within a certain specific period of time to see whether they have complied with the safety standards and that the conduct of workers has met the requirements of the guidebook? When did the authorities inspect the workshop in Yuen Long where the accident took place?

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung, according to the Rules of Procedure, Members may raise only one question each time when they wish to raise a supplementary question, but you have raised two already. However, for the sake of saving time, Secretary, would you like to answer them together?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, according to the information we have, the relevant workshop was inspected in August 1995. The opinion at the time was that there was no need to make any improvements to the equipment used in that workshop. In other words, the results of the inspection showed that there was nothing wrong with the workshop.

There are many places where gas welding is being carried out. After the accident, we have launched a territory-wide inspection campaign. To date, we have inspected nearly 4 000 places and the latest results of the inspections have been mentioned in the main reply. When this inspection campaign is completed, we will accord priority to the inspection of those workshops using oxy-acetylene cylinders, but I cannot undertake to target our inspections at these places at all times.
MR CHAN KWOK-KEUNG (in Cantonese): Madam President, will the new Code of Practice mentioned by the Secretary just now impose any penalties on those who contravene the requirements? If it does not, how can a deterrent effect be achieved?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): We plan to upgrade the guidebook into a Code of Practice mainly because of the provisions in the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance. The legislation stipulates that if an employer fails to provide a safe working environment, then when we are to make a prosecution, the employer’s failure to comply with the requirements of the Code of Practice can serve as evidence. In other words, the Court will consider whether the employer has contravened the principal legislation. That has a legal effect. As for the maximum penalty of contravening the provisions in the principal legislation, it is a maximum fine of $500,000 or imprisonment for six months.

MR AMBROSE LAU (in Cantonese): Madam President, in part (c) of the main reply, the Government mentioned that the inspection campaign launched following the explosion in Yuen Long was targeted at fire risks and storage problems associated with gas welding. Then it added up to 7 March 2000, a number of warnings and improvement notices had been issued and a number of prosecution actions taken out. I do not understand the meaning of these. Is it because of the actions taken subsequent to the Yuen Long incident that problems were discovered and so these warnings were issued; or are they not related to this incident alone? If so, what are the problems discovered by the authorities in the course of the inspections and so these warnings and improvement notices were issued and prosecution actions taken?

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, one of the ongoing efforts of the Labour Department is to spot check workplaces to see if problems exist or if any contravention is made to the legislation. After the explosion in Yuen Long, we launched a territory-wide inspection campaign especially targeted at workplaces where gas welding activities may be carried out. That is a special inspection action. The warnings and improvement notices mentioned in the main reply are results of this special inspection effort. That is different from other regular inspections.
President (in Cantonese): Last supplementary.

Miss Chan Yuen-Han (in Cantonese): Madam President, I wish to ask a question on this as well. As the Administration has told us, following the explosion in Yuen Long on 12 February, a territory-wide inspection campaign was launched. Up to 7 March, 792 warnings, 51 improvement notices and three suspension notices have been issued. That shows that the problem is very serious. The Administration also says that some amendments to the law are being considered, but these will only be tabled before the Legislative Council by year-end. May I ask in the meantime, that is, during the interim period from now until the end of this year when the two amendments will be enforced, what measures the Government has in place to deal with this grave situation?

Secretary for Education and Manpower (in Cantonese): Madam President, actually I have already answered Miss Chan’s question earlier. Before the guidebook is upgraded into a Code of Practice in June, we would continue with our inspection efforts as well as promoting the existing guidelines on occupational health. I wish to mention in passing that we are actually aiming at amending the legislation in future and to require workers engaged in gas welding to undergo mandatory safety training and obtain a relevant certificate. In this way, it is hoped that the problem can be solved in the long run. We would also contact the relevant organizations to iron out the details.

President (in Cantonese): We have spent more than 18 minutes on this question. We will now proceed to the sixth question.

Educating Investors on the Risks in Hi-tech Stocks Trading

6. Mr Kenneth Ting (in Cantonese): Madam President, recently, the initial public offer of shares by a company engaging in Internet business received an enthusiastic response from the public. Moreover, members of the public are also keen on trading in technology stocks, Internet stocks as well as stocks of those companies in respect of which there are rumours that they will be used for backdoor listings. In this connection, will the Government inform this Council
whether it has assessed if current investor education concerning the risks associated with investments in high-technology stocks is sufficient; if it is assessed to be sufficient, of the rationale for that; if not, how it will strengthen such education?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, we recognize that investor education is a long-term and continuing task, because there are always new investors in the market, and market development and changes are taking place increasingly rapidly. The Securities and Futures Commission (SFC) has been running a series of proactive investor education activities through different channels and means of the mass media in order to pass on the message to different target groups.

The key messages disseminated through these investor education programmes include investment risks, rights of investors under the current regulatory regime, and investors' responsibility to safeguard their own interests. As a market regulator, the SFC's education work seeks to cover a wide range of investment activities, instead of focusing on any specific sector of the market. The SFC also monitors closely the developments in the marketplace and the investor concerns, and introduces new initiatives to supplement the structured programmes. For instance, "health warnings" are issued as appropriate depending on market situations and circumstances.

In addition, the SFC is aware that many investors rely on the media and their brokers for advice in making investment decisions. This means that apart from the investor education efforts, it is also important for the securities industry and the media to provide the investors with correct information and explain to them the risks of stock trading, particularly those in relation to new investment products and new business sectors. The SFC therefore liaises closely with the media and the securities professionals in order to step up the efforts on investor education.

In recent months, in the light of the frenzy for hi-tech stocks, many of the SFC's education initiatives focus on reinforcing the key messages that it is important for investors to exercise care in their investment decisions, and to understand the nature of investments and know the level of risk they are undertaking. The SFC has recently produced a television Announcement of Public Interest on the message of "do not follow the crowd" as well as radio
programmes reinforcing the same message. There are also newspaper columns and television segments dedicated to similar themes. Furthermore, towards the end of 1999, when the wave of hi-tech or net stocks set in, the SFC issued a joint press release together with the Stock Exchange of Hong Kong (SEHK) to remind investors of the need to understand thoroughly the nature of the investment they intend to make.

While the SFC does not and cannot tell investors what or when to invest, it will do its best, as well as work with the Hong Kong Exchanges and Clearing Limited, securities professionals and the media to enhance investor education. The SFC has also planned a number of education programmes under the theme of knowing your risks in investment, which is applicable to investment in hi-tech or net stocks. These include special feature columns in leading newspapers, radio segments, outreach activities and public speeches. By mid-year, the SFC is scheduled to launch an electronic Investor Resources Centre, which seeks to provide investors with a one-stop reference website to learn more about investing and to obtain information relating to investments.

To better protect the interests of investors and to ensure that they would be able to make their investment decisions on the basis of all relevant information of the listed companies, the GEM Listing Rules have imposed a more stringent requirement for disclosure as compared with the Main Board. Nevertheless, it is still difficult for investors to assess the uprising new businesses. Many of such companies are only newly established and thus not yet profit-making. Also, they may not have any business track record for reference by the investors. It is therefore difficult for investors to assess and project their performance in the traditional way. Some of the new uprising businesses like the Internet-related businesses have just come to the market in these few years and overseas experience tells that there would be a period of intense competition in the market where only the strong ones would eventually survive. The investors should therefore be aware of the risks and invest within their means.

Recently, there are suggestions that before investing in hi-tech stocks, investors should find out the background, foundation and capital of the company concerned and whether the leadership has any past experience in doing technology-related businesses. However, the reality remains that there is still an absence of a set of universally agreed and adopted yardsticks for assessment of the prospects and stocks prices of the uprising new businesses. The problem is not unique to Hong Kong and other overseas markets are also facing similar
situation. As United States Federal Reserve Chairman Alan GREENSPAN said recently "The exceptional stock price volatility of most of the newer firms and, in the view of some, their outsized valuations, are indicative of the difficulties of divining from the many, the particular few of the newer technologies and operational models that will prevail in the decades ahead.". The issue concerning the uprising new businesses has also caused concern of the International Organization of Securities Commissions, which has in the regard set up a committee to study specifically the issues relating to regulation of hi-tech and net companies. The SFC is a member of the organization and will closely participate in the study.

MR KENNETH TING (in Cantonese): Madam President, I understand that the Growth Enterprise Market (GEM) Listing Rules have imposed a more stringent requirement for disclosure of all relevant information of the listed companies. However, according to a survey conducted by a local investment and financial management magazine, more than 50% of the investors never read the prospectuses of the stocks they invest in. Besides, while some 80% of the investors tend to follow the crowd and believe in the "quality brandname effect", about 90% of the investors do not have in place any risk-handling measures. Given that risk awareness is lacking in investors in general, could the Secretary inform this Council whether the Government would require companies seeking a listing on the GEM to include in their prospectuses risk awareness statements to be signed by investors, with a view to enhancing their risk awareness?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, naturally it would depend on the definition and extent of the risk to be disclosed. Nevertheless, generally speaking, as an existing practice, companies are required to disclose detailed information in their prospectuses. In the event of the scope of business of the company concerned involving any special risk, such risk will be mentioned in the prospectus as well. So, there are in fact requirements in this respect. If Honourable Members would like to have further or more specific requirements in this connection, the Government could take their request into careful consideration.
PRESIDENT (in Cantonese): Mr Kenneth TING, do you wish to wait for your turn to raise another supplementary, or do you consider a part of your supplementary has not been answered by the Secretary?

MR KENNETH TING (in Cantonese): Madam President, the Secretary has not answered the part of my supplementary on the requirements for subscribers to sign the risk awareness statement.

PRESIDENT (in Cantonese): Mr TING, I think the Secretary has already answered your supplementary. However, Secretary, do you mind repeating your answer?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): I beg your pardon, Madam President. Perhaps I have initially misunderstood Mr TING's supplementary. On the part of the companies offering their shares for subscription, their legal responsibilities are already provided for under the relevant laws. As regards the question of whether subscribers should be required to sign any letter of risk commitment, at present, investors buying and selling shares of companies listed on the GEM are required by the brokers or banks concerned to sign a memorandum of understanding to indicate that they understand the risk involved. However, this does not mean that the investors concerned are required to take responsibility for the risk involved. So, this is the current arrangement. I am not sure if I have answered Mr TING's supplementary.

MR ERIC LI (in Cantonese): Madam President, I should like to follow up the supplementary raised by Mr Kenneth TING. Actually, perhaps there are already too many documents that investors are required to sign. So, the problem may be that investors do not even know what documents they have signed, and that the contents of the prospectuses concerned are too complicated for them to understand. With regard to these two points, perhaps the Financial Services Bureau could consider ......
PRESIDENT (in Cantonese): Mr Eric LI, you should raise your supplementary rather than your suggestions.  (Laughter)

MR ERIC LI (in Cantonese): Yes, I understand, Madam President.  I hope the Secretary could consider the suggestion, I also hope that he …...

PRESIDENT (in Cantonese): Mr Eric LI, you should use say: Could the Secretary consider the suggestion?

MR ERIC LI (in Cantonese): Could the Secretary consider the suggestion, which requires investors to sign the prospectus?  On the other hand, the risk assessments or reports on risk analysis published in the annual reports of companies offering their shares for subscription are still far too limited at present.  Apart from the requirement for investors to sign the prospectuses concerned, would the Government also consider following up the risk assessments published by the relevant companies in their quarterly or half-yearly reports?  In addition, could the Government also consider simplifying the contents of prospectuses, with a view to enabling investors to read and understand the contents more easily and to know the risks they are exposed to when signing the prospectuses concerned?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, with regard to the second point raised in relation to the contents of prospectuses, we always have to strike a balance between the two competing needs concerned.  On the one hand, as much information as possible should be disclosed in the prospectuses to safeguard the interests of investors; on the other hand, the contents of prospectuses should be simplified as far as possible to enable easy understanding by investors.  Actually, it is the complicated wording rather than the length of a prospectus that makes comprehension difficult.  In this connection, however, over the past two years the SFC has issued more than once instructions for disclosing the relevant financial information in simple wording.  So, we indeed have in place a code in this respect.  If the Honourable Member is saying that there are still people who consider the prospectuses not easy to understand, then I believe we would need to give further publicity to the instructions for publishing prospectuses in simple wording, even though we have been giving publicity to the instructions all along.
As regards the other suggestion made by the Honourable Eric LI, I will consider it jointly with the SFC and the new stock exchange. In the future, when we require the listed companies on the GEM to disclose their relevant information on a quarterly basis, they will also be required to explain in particular such risks as whether or not the relevant objective environment has changed. I will liaise with the SFC and the new stock exchange.

MR FUNG CHI-KIN (in Cantonese): Madam President, as members of the securities sector, we would require clients selling and buying stocks listed on the GEM to sign a so-called "life and death agreement" in accordance with the rules and regulations of the SEHK. The Honourable Members who spoke just now have also referred to it as well. With regard to the 150,000 to 200,000 white form applicants who line up in front of banks to lodge their applications, could the Secretary inform this Council whether the bank staff concerned have required them to sign the "life and death agreement" before lodging their applications; and if not, who should be charged for dereliction of duty?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, according to what I have learnt from the Hong Kong Monetary Authority, investors buying or selling stocks on the GEM are required to sign a risk awareness statement which asks them to be aware of the risk involved. Such a statement is by no means something as serious as a "life and death agreement". In this connection, banks do have similar arrangements to require clients buying and selling stocks on the GEM to sign such a statement. Actually, this is not the first time I heard about comments like those made by Mr FUNG Chi-kin just now, as industry participants have also made similar criticisms recently. To my understanding, banks will require as an existing practice their clients to sign a risk awareness statement when buying and selling stocks to indicate that they understand the risk involved.

PRESIDENT (in Cantonese): Mr FUNG Chi-kin, which part of your supplementary has not been answered?
MR FUNG CHI-KIN (in Cantonese): Madam President, is the Secretary implying in his reply that owing to the absence of any actual dealings in stocks or some other reasons, the banks have not required members of the public concerned to sign the risk awareness statement?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, the shares were being offered for subscription, there was no actual dealing involved. The relevant banks would require their clients to sign the document if they should involve in selling and buying the shares concerned. This is my understanding in this connection.

MR HO SAI-CHU (in Cantonese): Madam President, it is mentioned in the last paragraph of the main reply that a committee has been set up to study the regulation-related issues. In view of the importance of the matter, and that Hong Kong is also a member of the committee, could the Secretary inform this Council whether he would lay down a timetable to urge the committee to speed up its work, so that the study results would be expeditiously available for our reference?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, this is an international organization and Hong Kong is also one of its members. As far as I know, however, the committee has not laid down any specific timetable for this. Nevertheless, since many countries have also expressed concern for the matter, the committee has already conducted a lot of studies by now. I certainly hope that the relevant work could be completed expeditiously, because it would do good to all of us if we should have in place a set of international standards for compliance by individual countries in discharging their respective monitoring duties.
MISS EMILY LAU (in Cantonese): Madam President, the Secretary mentioned in the main reply that there is still an absence of a set of universally agreed and adopted yardsticks for assessment of the prospects and stocks prices of the uprisin new businesses. Certainly, as also mentioned by the Secretary, many of such companies are too new to have any profit or any track record for reference. In this connection, could the Secretary inform this Council whether the Government has in place any measures to safeguard the interests of investors? If the prices of the shares of these new businesses should drop drastically, people would be criticizing the Government for being negligent of its duties. I am afraid by then the Government would have to use a great deal of taxpayers’ money to save the investors.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, two to three weeks ago the Honourable NG LEUNG-sing also raised a similar question, so I am going to repeat the answer very briefly now. The Government has in place several measures to provide protection for the investors: first, by way of education; second, maximizing the extent of information disclosure as far as possible to enable the market to operate in a fair, stable and transparent manner; and third, by way of monitoring through a number of mechanisms, the most important of which is to monitor market manipulation. The dramatic fluctuations in the market may not be due to market manipulation sometimes. However, should the SFC discover there are signs of such manipulation, it would not hesitate to track it down. With this three-pronged approach, we can achieve protection of investors.

After all, it is very important to educate the investors on their own responsibilities. Providing the risks involved and other relevant information have been disclosed, and that the investors concerned are adults, they should be able to make their own investment decisions. For this reason, investors should not consider that they do not need to bear any responsibility. The regulatory authority does not have any responsibility to safeguard the investors against any losses. This is one important message which we constantly send out to members of the public. However, our work does not stop there; if we should discover any unscrupulous conduct in the market, the SFC and the front-line regulatory authorities, which are the exchanges concerned, would certainly take action.

PRESIDENT (in Cantonese): Question time shall end here.
WRITTEN ANSWERS TO QUESTIONS

Entry of SAR and BNO Passport Holders to Bangladesh

7. MR HOWARD YOUNG: Madam President, I have received complaints about holders of Hong Kong Special Administrative Region (SAR) and British National (Overseas) (BN(O)) passports having been asked to pay US$30 and US$60 respectively at the immigration control points of Bangladesh because they did not have a visa, despite the fact that the country has granted visa-free access to these passport holders. Neither was a receipt issued nor a visa stamped on their passports after payment. In this connection, will the Government inform this Council of:

(a) the measures it has taken to ensure that the immigration control points of those countries which offer visa-free access to holders of SAR and BN(O) passports are aware of such a policy; and

(b) its advice to such passport holders on the action they should take when asked to pay fees upon arrival at the immigration control points of such countries?

SECRETARY FOR SECURITY: Madam President, with reference to the two specific questions raised:

(a) The Government is committed to securing maximum travel convenience for Hong Kong residents. To achieve this goal, we maintain close liaison with relevant authorities of other countries including those which have granted visa-free access to holders of SAR and BN(O) passports. Any potential or actual problems which come to our notice affecting the entry of Hong Kong residents into visa-free countries will be taken up promptly by the Government with the relevant authorities, to ensure that Hong Kong residents will continue to enjoy unimpeded access to the countries concerned.

(b) Hong Kong residents are advised to ascertain the circumstances leading to the levying of such fees, and where in doubt, refer the matter to the Immigration Department as soon as practicable.
As regards the complaints about holders of SAR and BN(O) passports having been asked to pay at the immigration control points of Bangladesh, the Government has already conveyed our concern to the Bangladesh Consulate and requested for an explanation. A response is awaited.

Personal Safety of Customs Officers in Anti-piracy Actions

8. DR DAVID LI: Madam President, while the Customs and Excise Department’s special anti-piracy task force has decimated the number of outlets of pirated products, the suspects tend to be more violent when they are being arrested, as witnessed by the increased number of injuries sustained by Customs officers whilst performing such duties last year. In this connection, will the Government inform this Council whether:

(a) it will consider providing additional training to Customs officers to ensure their personal safety while performing law-enforcement duties; and

(b) it will deploy extra manpower or weapons in such law-enforcement actions; if not, of the reasons for that?

SECRETARY FOR TRADE AND INDUSTRY: Madam President,

(a) Apart from the basic induction training provided at the time of recruitment (30 weeks for inspectors and 13 weeks for Customs officers), all Customs staff will need to attend on-the-job training to enhance their enforcement capabilities whilst ensuring their personal safety during operations. These training include scheduled firing practices and sessions on the use of extendable batons. Before conducting daily anti-piracy operations, commanding officers will brief their staff on the location and environment of the raids, matters requiring special attention, personal safety precautions, and the deployment of duties and equipment. On top of the above, the Department has designated on a monthly basis a day for physical training of Customs officers. Overall, we believe that the existing training is adequate.
(b) The Intellectual Property Investigation Bureau of the Customs and Excise Department is one of the strongest teams in the region responsible for the protection of intellectual property rights. The Bureau has doubled from 117 persons in 1994-95 to 285 persons in the current financial year. Customs has also set up a 185-person special task force last June to enhance enforcement against retail piracy activities. Coupled with the flexible deployment of resources by the Commissioner of Customs and Excise, we do not think that it is necessary to request for additional manpower to tackle the problem. As regards the use of weapons, firearms are issued to Customs officers according to their operational needs. Officers will also be equipped with extendable batons for self-defence purposes in certain raids. Customs officers are therefore adequately equipped for their operational requirements. We will, nonetheless, provide other necessary equipment should the need arise.

**Efficient Utilization of Radio Frequency Spectrum within Hong Kong**

9. **MISS CHRISTINE LOH:** Madam President, given that the Government's stated policy is to ensure the efficient utilization of the radio frequency spectrum within Hong Kong, will the Administration inform this Council:

   (a) whether it knows if the People's Liberation Army Military Force stationed in Hong Kong, which took over a set of Frequency Modulation (FM) radio frequencies from the former British Forces Broadcasting Services, has any plan to broadcast;

   (i) if it has, of the details of the plan;

   (ii) if not, whether the relevant frequency band will be returned to the Government of the Hong Kong Special Administrative Region (SAR) for allocation for other uses; if so, whether it will consider switching Radio 3, Radio 5 and the Putonghua channels of the Radio Television Hong Kong (RTHK) to FM broadcasting for better reception;
(b) whether it will consider introducing more commercial broadcasters to enable a more lively and diverse radio service provision;

(c) whether it will consider setting aside frequency bands for broadcasting by non-commercial or community based organizations to provide a richer civic environment; and

(d) of the results of the RTHK’s field tests on Digital Audio Broadcasting (DAB) completed last year, and how DAB will assist in overcoming the shortcomings of FM and Amplitude Modulation (AM) analogue broadcasting?

SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING: Madam President,

(a) In accordance with Article 10 of the Garrison Law, the Government of the SAR shall support the Hong Kong Garrison in its performance of defence functions and responsibilities. Similar to the arrangement before the reunification, the Office of the Telecommunication Authority (OFTA) has allocated a number of radio frequencies for use by the Garrison which is stationed in the SAR for defence purposes. The plan of the Hong Kong Garrison for using such frequencies is a defence-related matter of which we have no details.

(b) and (c)

Currently, radio frequencies available for FM broadcasting in Hong Kong can technically support up to seven territory-wide channels only. All these channels have been allocated to existing radio services provided by the RTHK and the two commercial radio broadcasters. There are, therefore, no spare frequencies available for the introduction of new FM services.

On the other hand, we are examining the technical, market and regulatory issues concerning the introduction of DAB services in Hong Kong. We will formulate policy proposals on sound broadcasting services under a digital environment for consultation with the industry and the community later this year.
(d) The results of the technical trial on DAB conducted jointly by the RTHK and the two commercial broadcasters are generally positive. The results indicate that with the use of similar transmission power, the coverage of DAB signals is comparable to that of existing FM services. In addition, DAB is less susceptible to interference than AM and FM analogue broadcasting. DAB should therefore provide improved sound quality.

Provision of Native English-speaking Teachers to Primary Schools

10. MISS EMILY LAU (in Chinese): Madam President, it is reported that the Administration plans to apply for funding under the Quality Education Fund to implement a two-year pilot scheme in which a total of 20 native English-speaking English teachers (NETs) will be provided to 40 primary schools. In this connection, will the executive authorities inform this Council whether:

(a) they have studied if it is more effective in terms of teaching and learning performance to provide NETs at the primary school stage than at the secondary school stage; and

(b) they will consider allocating resources for the provision of NETs to all primary schools in Hong Kong?

SECRETARY FOR EDUCATION AND MANPOWER (in Chinese): Madam President,

(a) At present, 16 primary schools are provided with funding from the Language Fund and the Quality Education Fund to recruit NETs through a pilot scheme. The Standing Committee on Language Education and Research has commissioned an evaluation study on this scheme. According to the consultants’ interim report, these teachers do have a useful role to play in enhancing the English standard of primary school pupils, especially their ability to listen and speak English. However, there are currently insufficient data to show that it is more effective to provide NETs to the primary schools than to secondary schools.
(b) The consultants will submit the final report on the study of the employment of NETs in primary schools by the end of this year. We will carefully consider whether NETs should be deployed to primary schools in the light of the consultants' recommendations. Besides, as referred to in the question, the Education Department is applying for funding under the Quality Education Fund to provide additional support for the teaching of English in 10 primary schools, including the recruitment of additional NETs. The application is now under consideration.

Prosecution of Franchised Bus Drivers Found Speeding

11. **MR LAU KONG-WAH** (in Chinese): Madam President, regarding the speeding problem of franchised bus drivers, will the Government inform this Council:

   (a) of the numbers of cases involving bus drivers speeding, as recorded by the police in each of the past five years; among these cases, of the respective numbers of cases in which the drivers were prosecuted and convicted; in cases where the drivers found speeding were not prosecuted, of the reasons for that;

   (b) whether the police have encountered difficulties in prosecuting bus drivers found speeding; if so, of the details; and

   (c) whether it knows the number of buses installed with automatic speed limitation system, and the percentage it represents in the total numbers of buses in each of the current bus fleets of the franchised bus companies; and whether the performance of the speed limitation systems is regularly inspected by the franchised bus companies?

**SECRETARY FOR TRANSPORT** (in Chinese): Madam President, the police have kept separate statistics on the number of speeding cases involving franchised bus drivers only since 1998. In 1998 and 1999, the police issued 86 and 100 fixed penalty tickets respectively to franchised bus drivers for speeding. Among these cases, three franchised bus drivers refused to pay the fixed penalties and the cases are awaiting trial in court. In addition, two summonses were issued to franchised bus drivers for speeding in 1999. One was withdrawn subsequently because of insufficient evidence, and the other is awaiting trial in
court. The police have not encountered any specific difficulties in dealing with bus drivers found speeding.

The number of franchised buses installed with speed limiters, broken down by franchised bus company, is listed below:

<table>
<thead>
<tr>
<th>Bus Company</th>
<th>No. of franchised buses with speed limiters (at end February 2000)</th>
<th>Percentage of franchised buses with speed limiters to total bus fleet</th>
</tr>
</thead>
<tbody>
<tr>
<td>KMB Company Limited</td>
<td>3 695</td>
<td>90%</td>
</tr>
<tr>
<td>Citybus Limited</td>
<td>961</td>
<td>100%</td>
</tr>
<tr>
<td>New World First Bus Services Limited</td>
<td>444</td>
<td>60.8%</td>
</tr>
<tr>
<td>Long Win Bus Company Limited</td>
<td>150</td>
<td>95%</td>
</tr>
<tr>
<td>New Lantao Bus Company Limited</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5 250</strong></td>
<td><strong>87%</strong></td>
</tr>
</tbody>
</table>

The speed limiters, which form part of the engine fueling system, are regularly checked under the routine maintenance programme of the franchised bus companies. Annual inspection/calibration is also carried out to ensure speed control accuracy. On a day-to-day basis, if there is any irregularity reported by bus drivers or detected during spot checks or running repairs, the bus companies will inspect the speed limiters immediately so as to ensure that they can function properly.

**Increasing the Penalties for Substandard Building Works**

12. **MISS EMILY LAU**: Madam President, on 6 January this year, a construction company responsible for substandard piling works was found guilty of allowing substantial deviation of the construction works from the approved plans, and was fined $250,000, which is the maximum penalty for such offence stipulated in the Buildings Ordinance (Cap. 123). The magistrate concerned called for an increase in the maximum penalty for breaching the building regulations so as to maintain an adequate deterrent effect. In this connection, will the executive authorities inform this Council of:
(a) the number of cases involving substandard piling works uncovered over the past three years;

(b) the action they have taken to strengthen the monitoring of such building works; and

(c) the legislative timetable for amending the maximum penalty for such offence?

SECRETARY FOR PLANNING AND LANDS: Madam President,

(a) In the past three years, defective piling works were found on six private building sites. All these cases involved large-diameter bored piles (LDBPs).

(b) Since the middle of 1999, the Buildings Department (BD) has progressively introduced a number of measures to step up monitoring of the construction of LDBPs, including:

(i) All records of ground drilling which are performed before the construction of LDBPs to determine the appropriate underground rock level for founding the piles are now required to be submitted to the BD at regular intervals, instead of upon completion of the construction of all piles. These records will be immediately checked against information gathered in previous site investigations carried out for designing the foundations. This enables staff of the BD to detect discrepancies early so that any necessary rectification works can be done in time.

(ii) Registered Structural Engineers (RSEs) are required to conduct proof tests of some of the completed LDBPs, that is, by coring the piles from the top to the bottom and into the rock, to prove that the piles have reached the appropriate rock stratum. The number of completed piles randomly selected by BD staff for such audit checks has generally been increased. The percentage checked now ranges from 5% to 15%, depending on the geological conditions of individual sites.
(iii) In the process of the coring of a pile in a proof test mentioned above, segments of the concrete core (that is, core samples) have to be extracted for checking the quality of the concrete. RSEs are now required to put in place tighter security measures to ensure that the core samples so retrieved are not tampered with. Such additional measures include making a photographic record of the core samples, and storing them in boxes under seal and lock before they are inspected by BD staff.

(iv) When, in a proof test, the drill reaches about 1m above the intersection between the pile and the rock stratum, the coring will only continue in the presence of a BD officer until the drill has gone into the rock. The core sample of the intersection will then be extracted for immediate inspection by the BD officer.

In addition, the BD has formed a Working Group on Built Quality to conduct a critical review of the construction processes and to recommend further measures to enhance the quality of construction of private buildings, particularly foundation works.

(c) In view of the recent cases of defective piling, the Administration is reviewing the level of fines for the relevant offences under the Buildings Ordinance with a view to maintaining an adequate deterrent effect. We are consulting the industry and relevant professional institutes, and we plan to introduce legislation to increase the level of these fines in the next legislative session.

Loans made out by Hong Kong from Exchange Fund through International Monetary Fund

13. MR LAU KONG-WAH (in Chinese): Madam President, will the Government inform this Council:

(a) of the respective amounts of loans made out by Hong Kong from the Exchange Fund through the International Monetary Fund (IMF) in each of the past five years;
(b) of the following information about those loans: average maturity, average interest rates, borrowing countries and the respective status of the repayments; and

(c) how the interest rates of such loans compare to the rates of return from other investments of the Exchange Fund over the same period?

SECRETARY FOR FINANCIAL SERVICES (in Chinese): Madam President,

(a) There have been two facilities provided by the Exchange Fund in relation to the IMF's financing packages for Thailand and Brazil respectively. One facility is in the form of a Currency Swap Agreement between the Bank of Thailand and the Hong Kong Monetary Authority (HKMA), with the swap renewable every six months. The terms of the swap are similar to those for other lenders, including a number of Asian central banks. Since the first drawdown was made from the Exchange Fund in October 1997, Hong Kong has released US$0.86 billion of the US$1 billion facility to the Bank of Thailand. Drawdowns were made in parallel with Thailand's drawdowns from the IMF. Thailand has given notice that it would not draw down on the remaining US$0.14 billion. No new drawdowns have been made by the Bank of Thailand since the last one made in July 1999.

The other facility took the form of HKMA's participation under the New Arrangements to Borrow (NAB), a standby credit facility to the IMF. The NAB are a set of credit arrangements between the IMF and 25 members and institutions to provide supplementary resources to the IMF to forestall or cope with an impairment of the international monetary system or to deal with an exceptional situation that poses a threat to the stability of the system. In December 1998, the IMF drewdown US$44 million from Hong Kong for onlending to Brazil, which was repaid in full by the IMF in March 1999.
(b) The loan to the Bank of Thailand has a maturity of five years with interest accruing on outstanding principal based on six-month London Interbank Offer Rate (LIBOR). Since the start of the loan in October 1997, the interest rate on the Thai loan has averaged at 5.58%. It is payable on each six-monthly renewal of the swap. Repayment of each drawdown is made three and a half years after the drawdown, in four six-monthly instalments. The last swap facility will be repaid in July 2004.

With respect to the loan to the IMF under the NAB, the first drawdown on the HKMA was made in December 1998 for an amount of SDR\(^1\)31 million (equivalent to about US$44 million). It must be noted that the loan was made to the IMF, an institution with a triple-A rating. Under the terms of the NAB, lending to the IMF in SDR would bear SDR interest rates\(^2\). As the terms for the loan to the IMF under the NAB are part of a multilateral loan agreement between the IMF and other NAB creditors, we are not in a position to disclose, on a unilateral basis, the agreed interest rates. The loan was repaid in full in March 1999 when the IMF received capital injection from its members.

(c) The rate of return on the Exchange Fund's average investible assets was 14.9% for 1998 and 6.7% for 1997. The relatively high rate of return in 1998 was due to the $35 billion gains from the Hong Kong equity portfolio.

It is important to note that the interest rates on the loans to the Bank of Thailand and to the IMF cannot be directly compared to the investment return on the Exchange Fund. The former represents the lending rates on individual loans which are commonly based on interbank rates, while the latter represents the average returns on a portfolio comprising different classes of assets such as bonds, equities and deposits. The loans in question also represent our

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1 Special Drawing Rights, the unit of account for IMF transactions.
2 The SDR interest rates are adjusted weekly and are weighted averages of the yields on specified short-term instruments in the domestic money markets of the five currencies included in the SDR basket. The five currencies were French franc, deutsche mark, Japanese yen, pound sterling, and US dollar.
participation in international forum to maintain international financial and monetary stability in the face of severe strain and volatility. It is in Hong Kong’s interests, as a leading financial centre, to see a strong and stable international and neighbouring environment.

Design of Expressways for Emergency Parking

14. MR NG LEUNG-SING (in Chinese): Madam President, on 15 February this year, a serious traffic accident occurred on the Tolo Highway in which a bus crashed into a broken-down lorry stopping on the hard shoulder, causing injuries to several bus passengers on board. In this connection, will the Government inform this Council:

(a) of the number of traffic accidents, and the resultant casualties, involving vehicles stopping on the hard shoulders of expressways in the past five years, and whether there is an upward trend in such figures;

(b) whether the hard shoulders of expressways in Hong Kong are wide enough to accommodate the stopping of large vehicles, and how the design standards of such hard shoulders compare to those adopted in advanced countries; and

(c) whether it has assessed if there are adequate facilities for emergency stopping on the sides of expressways in Hong Kong; if so, of the assessment results; if not, the reasons for that?

SECRETARY FOR TRANSPORT (in Chinese): Madam President, the number of traffic accidents, and the resultant casualties, involving vehicles stopping on the hard shoulders of expressway in the past five years are as follows:
The statistics show that both numbers of traffic accidents and casualties remain at roughly the same level over the past five years.

Since 1989, all newly built expressways are required to provide a 3.3 m wide hard shoulder for the full length of the expressways. This design standard is identical to that adopted in the United Kingdom and other developed countries and is considered adequate for the stopping of all types of vehicles during emergency.

The facilities for emergency stopping of vehicles on expressways are considered adequate for all expressways completed in the 1990s. However, for the "older" highways built in the 1970s and the early 1980s, such as Tuen Mun Road and Tolo Highway, hard shoulders with a width of 1 m to 2 m were provided. To improve the situation, we have provided emergency laybys at regular intervals along these "older" highways where space allows. We also plan to upgrade these hard shoulders to the current standard full width where site conditions permit, when improvement or reconstruction works to these highways are undertaken.

Issuance of Hong Kong Permanent Identity Cards

15. **MR HOWARD YOUNG**: Madam President, will the Government inform this Council of the number of persons, broken down by nationality, to whom Hong Kong permanent identity cards (HKPIC) have been issued in accordance with Article 24 para 2(4) of the Basic Law of the Hong Kong Special Administrative Region since the reunification?
SECRETARY FOR SECURITY: Madam President, since the reunification and up to 2 March 2000, a total of 33 468 persons were issued with HKPIC upon establishment of their claims to the right of abode in accordance with Article 24 para 2(4) of the Basic Law, as implemented by paragraph 2(d) of Schedule 1 to the Immigration Ordinance (Cap. 115). Breakdowns by nationality are as follows:

<table>
<thead>
<tr>
<th>Nationals of</th>
<th>No. of HKPIC issued</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>United Kingdom</td>
<td>6 609</td>
<td>19.7</td>
</tr>
<tr>
<td>India</td>
<td>5 311</td>
<td>15.9</td>
</tr>
<tr>
<td>Philippines</td>
<td>3 592</td>
<td>10.7</td>
</tr>
<tr>
<td>Thailand</td>
<td>3 529</td>
<td>10.5</td>
</tr>
<tr>
<td>Pakistan</td>
<td>2 799</td>
<td>8.4</td>
</tr>
<tr>
<td>Indonesia</td>
<td>2 323</td>
<td>6.9</td>
</tr>
<tr>
<td>Japan</td>
<td>1 383</td>
<td>4.1</td>
</tr>
<tr>
<td>United States</td>
<td>1 355</td>
<td>4.0</td>
</tr>
<tr>
<td>Republic of Korea</td>
<td>1 115</td>
<td>3.3</td>
</tr>
<tr>
<td>Australia</td>
<td>1 051</td>
<td>3.1</td>
</tr>
<tr>
<td>Other nations</td>
<td>4 401</td>
<td>13.1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>33 468</strong></td>
<td><strong>100.0</strong></td>
</tr>
</tbody>
</table>

Listing Costs on the Growth Enterprise Market

16. MRERIC LI (in Chinese): Madam President, will the Government inform this Council whether:

(a) it knows the respective amounts of different categories of expenses pertaining to listing work incurred by companies currently listed on the Growth Enterprise Market (GEM); the respective ratios of such expenses to the funds raised by the companies concerned upon listing; and

(b) it has assessed if the cost of applying for listing on the GEM of Hong Kong is competitive in comparison with those required for listing on similar stock markets in the United States and Singapore?
SECRETARY FOR FINANCIAL SERVICES (in Chinese): Madam President,

(a) The statistics on the costs involved in GEM listings is set out in Schedule A attached. It suggests that the less funds raised, the higher the IPO costs proportionately will be. For example, in one case, where the fund raised was over HK$3,000 million, the total expenses constitute 6% of the fund raised. For another case, where the fund raised was below HK$50 million, the total expenses constitute over 20% of the fund raised. For a typical HK$250 million share offer, the total expenses incurred for listing constitute about 5% to 7% of the total amount of funds raised. Schedule B shows a breakdown of the different kinds of expenses involved. It must be emphasized that the amount of costs which a company needs to expend on in an IPO in the GEM or in any other similar markets depend on the individual case and the complexity of each case. For example, the legal fees vary depending on the complexity of the pre-IPO restructuring, whether due diligence/verification work would involve overseas travelling and advice on overseas compliance issues.

(b) We have not done any empirical studies on the IPO costs of listing in the United States and Singapore. However, preliminary research and soundings from the market give the following findings:

Hong Kong vs United States: For a US$50 million (or approximately HK$400 million) offer on NASDAQ, underwriters usually charge a 7% fee on the issue size. The total IPO costs are around 10% of the funds raised. Comparatively, therefore, a listing on NASDAQ is significantly more expensive than a listing on the GEM of similar size.

Hong Kong vs Singapore: Hong Kong appears to be broadly competitive with Singapore.
Schedule A

The Growth Enterprise Market
Statistics on IPO costs

<table>
<thead>
<tr>
<th>Funds raised HK$ (million)</th>
<th>Total IPO expenses HK$ (million)</th>
<th>Total IPO expenses as a ratio of funds raised</th>
</tr>
</thead>
<tbody>
<tr>
<td>At or below 150</td>
<td>8 to 15</td>
<td>22% to 10%</td>
</tr>
<tr>
<td>Above 150 and below 1,000</td>
<td>12 to 58</td>
<td>6% to 8%</td>
</tr>
<tr>
<td>Over 1,000</td>
<td>52 to 185</td>
<td>4% to 6%</td>
</tr>
</tbody>
</table>

Note: The above figures represent the range among the 15 companies on GEM, including one to be listed within March.

Schedule B

The Growth Enterprise Market
Fees Breakdown

The following is a rough fee breakdown for a typical HK$250 million share offer:

<table>
<thead>
<tr>
<th></th>
<th>HK$'000</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sponsor advisory fee</td>
<td>2,000-2,500</td>
<td>13%-14%</td>
</tr>
<tr>
<td>Underwriting/placing commission fee (2.5%-3.5%)</td>
<td>6,250-8,750</td>
<td>44%-48%</td>
</tr>
<tr>
<td>Legal fees</td>
<td>3,000-3,500</td>
<td>19%-21%</td>
</tr>
<tr>
<td>Accountants fee</td>
<td>700-1,500</td>
<td>5%-8%</td>
</tr>
<tr>
<td>Receiving bankers</td>
<td>250</td>
<td>1%-2%</td>
</tr>
<tr>
<td>Printing</td>
<td>800</td>
<td>4%-6%</td>
</tr>
<tr>
<td>Announcements</td>
<td>600¹</td>
<td>3%-4%</td>
</tr>
</tbody>
</table>

¹ Under the GEM rules an issuer is required to publish its announcements on the GEM website only. An issuer may, at its option, publish the announcements on the newspapers for publicity purposes.
<table>
<thead>
<tr>
<th></th>
<th>HK$'000</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Listing fees</td>
<td>350</td>
<td>2%-3%</td>
</tr>
<tr>
<td>Share Registrar</td>
<td>100</td>
<td>Less than 1%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>14,050-18,350</td>
<td>100%</td>
</tr>
</tbody>
</table>

% of HK$250 million funds raised 5%-7%

Conversion of the former Yau Ma Tei Theatre

17. **MR TIMOTHY FOK** (in Chinese): Madam President, will the Government inform this Council whether there are plans to convert the former Yau Ma Tei Theatre into a venue dedicated to the performance of Chinese traditional operas, and to designate an area in its vicinity for folk-culture activities; if so, of the details; if not, the reasons for that?

**SECRETARY FOR PLANNING AND LANDS** (in Chinese): Madam President, the Yau Ma Tei Theatre has been graded by the Antiquities Advisory Board as a Grade II historical building. Grade II buildings are buildings of special merit which the Antiquities and Monuments Office may select to preserve.

Under the Urban Renewal Authority Bill which is currently being examined by this Council, the purposes of the Urban Renewal Authority (URA) include redevelopment of dilapidated buildings, rehabilitation of buildings in need of repair, and the preservation of buildings and sites of historical, cultural and architectural interest. In the Urban Renewal Strategy Study conducted by the Planning Department, the Yau Ma Tei Theatre has been recommended for preservation by the future URA. It is also proposed that the URA should consider preserving and enhancing some of the buildings and sites of historical and cultural interest in the vicinity of the Yau Ma Tei Theatre, including the Yau Ma Tei Fruit Market, the Yau Ma Tei Police Station and the Jade Market, so as to preserve the traditional local characteristics of that area.
As regards the future use of the Yau Ma Tei Theatre, the Government has received a number of proposals from cultural and performing arts groups and will forward them to the URA when it is established. The Hong Kong Tourist Association is also conducting a consultancy study entitled "Heritage Tourism Development Concept for the Yau Ma Tei Theatre and the Surrounding Area". We expect that the URA will take into account all the views from the community before making a decision.

Communication between SFC/SEHK and Growth Enterprise Market Companies

18. **MR ERIC LI** (in Chinese): Madam President, will the Government inform this Council whether it knows the details in respect of the investigations carried out by the Securities and Futures Commission (SFC), the Stock Exchange of Hong Kong (SEHK) and the organizations under their respectiveambits on companies which have applied for listing on the Growth Enterprise Market (GEM), including:

(a) the number of inquiry letters seeking information from such companies and the number of written questions raised with them; and

(b) the number of meetings held with the management of such companies?

**SECRETARY FOR FINANCIAL SERVICES** (in Chinese): Madam President, as in the case of the Main Board, the SEHK is the frontline regulator for companies listed on the GEM. It regulates GEM companies principally through the GEM Listing Rules. There are designated teams under the SEHK to consider and vet the information contained in the prospectuses of the applicants for listing to make sure that the prospectuses are in compliance with the requirements under the GEM Listing Rules and the Companies Ordinance, and, where necessary, to seek clarifications from them. Upon confirmation of the compliance with the listing requirements and the relevant provisions of the Companies Ordinance, a recommendation would then be made to the GEM Listing Committee for approval.
The role of the SFC is to oversee the SEHK in the performance of its listing functions and it does not directly deal with the applications. However, during the initial establishment of the GEM, the SFC and the SEHK agreed that the prospectuses/listing documents of the first six listings on the GEM should be vetted jointly by the two regulators based on the requirements of the Companies Ordinance and the GEM Listing Rules. In doing so, the SFC considered the prospectuses of the applicants and passed its comments to the SEHK for further action. The SFC did not deal with the applicants or their advisers directly in the process.

Apart from the six prospectuses, the SFC is not involved in processing other applications for listing on GEM. All listing applications on the GEM are processed solely by the SEHK as in the case of the Main Board.

Of the 13 successful applications for listing on the GEM as at 7 March, on average, nearly 50 correspondences were issued to the sponsor and/or the issuer, with more than 640 questions/comments raised on each case. The SEHK also conducted one to three meetings with the issuer to discuss its application.

Development of Gateball Activities


   (a) of the number of venues under its management which are dedicated to gateball games and the geographical distribution of such venues;

   (b) whether it has plans to increase the number of such venues; if so, of the details; if not, the reasons for that; and

   (c) whether it has plans to launch promotional activities to encourage elderly people to participate in gateball games with a view to strengthening their health; if it has, of the details; if not, the reasons for that?
SECRETARY FOR HOME AFFAIRS (in Chinese): Madam President, my reply to the questions raised by the Honourable Member are as follows:

(a) Currently, there are 18 dedicated gateball courts managed by the Leisure and Cultural Services Department (LCSD) which are open to the public free of charge. The geographical distribution of those courts is at Annex A.

(b) The Government intends to increase the provision of gateball courts. Currently, there are eight gateball courts which are being planned or under construction by the LCSD. The details are at Annex B.

(c) The LCSD aims to encourage more elderly people to take part in gateball. It will launch a series of publicity and promotional activities, such as gateball fun days and elementary training courses. The LCSD will also encourage the elderly to develop their interest in the sport by forming teams and taking part in competitions. This is aimed at encouraging our senior citizens to pursue a healthy and active lifestyle and to enrich their social life. The Department plans to organize more than 400 gateball programmes for about 21 400 participants in 2000.

Annex A

LCSD Designated Gateball Facilities

<table>
<thead>
<tr>
<th>District</th>
<th>Location</th>
<th>No. of Courts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sham Shui Po</td>
<td>Lai Chi Kok Park</td>
<td>1</td>
</tr>
<tr>
<td>Wong Tai Sin</td>
<td>Morse Park</td>
<td>2</td>
</tr>
<tr>
<td>Kwun Tong</td>
<td>Hong Ning Road Park</td>
<td>2</td>
</tr>
<tr>
<td>Tuen Mun</td>
<td>Tsing Tin Playground</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Yeung King Playground</td>
<td>1</td>
</tr>
<tr>
<td>Yuen Long</td>
<td>Yuen Long Park</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Tin Shui Wai Park</td>
<td>1</td>
</tr>
<tr>
<td>District</td>
<td>Location</td>
<td>No. of Courts</td>
</tr>
<tr>
<td>----------</td>
<td>------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Tsuen Wan</td>
<td>Tsuen Wan Park</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Tsuen Wan Riviera Park</td>
<td>1</td>
</tr>
<tr>
<td>Tai Po</td>
<td>Tai Po Waterfront Park</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Yuen Shin Park</td>
<td>1</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>Che Kung Miu Road Playground</td>
<td>2</td>
</tr>
<tr>
<td>Sai Kung</td>
<td>Po Hong Park</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Sheung Ning Playground</td>
<td>2</td>
</tr>
</tbody>
</table>

Annex B

LCSD Gateball Facilities Under Planning/Construction

<table>
<thead>
<tr>
<th>District</th>
<th>Location</th>
<th>No. of Courts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kwun Tong</td>
<td>Jordan Valley Playground</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Jordan Valley Landfill</td>
<td>2</td>
</tr>
<tr>
<td>Sham Shui Po</td>
<td>Lai Chi Kok Park</td>
<td>1</td>
</tr>
<tr>
<td>North</td>
<td>Fanling (near Glamour Garden)</td>
<td>1</td>
</tr>
<tr>
<td>Sha Tin</td>
<td>Ma On Shan</td>
<td>2</td>
</tr>
</tbody>
</table>

Promotion of Unsanctioned Betting Activities in Hong Kong

20. MISS CHOY SO-YUK (in Chinese): Madam President, it was reported that a foreign company which offered unsanctioned Mark Six betting activities on the Internet had planned to hold a press conference in Hong Kong to promote such betting activities. In this connection, will the Government inform this Council:
(a) **whether it is an offence to organize such promotional activities in Hong Kong; if so, of the relevant legislation and penalties; and**

(b) **of the follow-up actions it has taken in respect of such promotional activities?**

**SECRETARY FOR HOME AFFAIRS (in Chinese):** Madam President, my replies are as follows:

(a) Under the Gambling Ordinance, any lottery, if not authorized or licensed, is unlawful regardless of whether it is promoted, conducted or managed in Hong Kong or outside Hong Kong. Section 9 of the Gambling Ordinance stipulates that any person who promotes, organizes, conducts or manages, or otherwise has control of, an unlawful lottery; or in any capacity assists, either directly or indirectly, in the promotion, organization, conduct, management or other control of an unlawful lottery, commits an offence.

Any person who promotes in Hong Kong unauthorized lotteries on the Internet (for example, gambling activities which use Hong Kong Mark Six results in determining winners) may contravene section 9 of the Gambling Ordinance and is liable to a maximum fine of $5 million and seven years' imprisonment.

(b) The Government has been monitoring closely promotional activities organized in Hong Kong by Internet gambling companies. One such foreign company had plans to hold a press conference on 22 February 2000 to promote betting via the Internet. As soon as the Home Affairs Bureau was aware of the plan, it sought advice from the Department of Justice and notified the police to take appropriate enforcement action. The press conference was eventually called off by the organizer.

The Government has all along called on the public not to take part in Internet gambling activities to avoid breaching the law. Besides, as these activities are not regulated by the laws of Hong Kong, the rights of the punters are not protected so that they may suffer money losses. One Internet gambling company has recently publicized
through the media the idea of paying duty in exchange for lawful status, in a bid to test government and public response. The Government has already made it clear that no consideration will be given to this.

BILLS

First Reading of Bills


AIR CARGO TRANSHIPMENT (FACILITATION) BILL 2000

SECURITIES AND FUTURES LEGISLATION (PROVISION OF FALSE INFORMATION) BILL 2000

REVENUE BILL 2000

KARAOKE ESTABLISHMENTS BILL

CLERK (in Cantonese): Air Cargo Transhipment (Facilitation) Bill 2000
   Securities and Futures Legislation (Provision of False Information) Bill 2000
   Revenue Bill 2000
   Karaoke Establishments Bill.

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

Second Reading of Bills


AIR CARGO TRANSHIPMENT (FACILITATION) BILL 2000
SECRETARY FOR TRADE AND INDUSTRY (in Cantonese): Madam President, I move that the Air Cargo Transhipment (Facilitation) Bill 2000 be read the Second time.

The Chief Executive made it clear in his last policy address that where air cargo services are concerned, the Government will adopt a liberalization policy for the further development of Hong Kong into an international and regional hub of air cargo movement. In keeping with the principle espoused in the policy address, the Bill seeks to facilitate air cargo transshipment and help Hong Kong develop into the best transshipment hub of air cargo movement in the Asia-Pacific Region.

There is an important consideration in drafting the Bill, which is to strike a prudential balance between facilitating business and maintaining the integrity of the trade control system.

The Bill mainly involves various air transshipment goods that are either non-sensitive or less sensitive such as integrated circuit, alcohol, tobacco, pharmaceutical products and medicine. Almost all of these goods are presently transported by air and these air transshipment goods must be licensed as if the goods were imported into Hong Kong for local use, but actually these goods only stop over in Hong Kong for air transshipment. They remain in the restricted area of the Hong Kong International Airport throughout the process and only for a very short time. This is especially the case for air cargo sent by express, which generally stops over for only a couple of hours.

In addition, we have also taken into account the fact that the restricted area of the airport is subject to tight security control and close supervision of Hong Kong Customs. Hence, after deliberation, we think it is possible to revoke the requirement of licensing and approval for non-sensitive and less sensitive air transshipment cargoes.

As for less sensitive strategic commodities, we suggest implementing a transshipment cargo exemption scheme. Under the scheme, eligible airlines and their agents can apply for exemption of individual licensing under the close supervision of the Director-General of Trade; in other words, registered persons need not apply for licensing of such air transshipment cargoes on each of the occasions.
However, the revocation of the requirement of licensing and approval or the exemption of individual licensing does not mean that the Government will relax its control on the relevant goods. I must stress that the Government will continue its efforts in maintaining stringent control so as to stamp out illegal transshipment activities. In this connection, Hong Kong Customs will deploy extra manpower, work out the relevant procedures and install sophisticated instruments to strengthen surveillance and to curb the illegal transshipment activities of air cargoes.

Moreover, the Bill provides that should the air transhipment cargoes without having obtained the import licence or permit be removed from the airport and then imported into a place other than Hong Kong, the importer of the goods shall assume legal liability.

The category of air transshipment cargoes referred to herein shall be governed by four ordinances and 15 regulations. Amendments to these ordinances and regulations are detailed in the nine schedules to the Bill.

Sensitive strategic commodities and other goods that are highly sensitive such as drugs, hazardous waste and infectious materials are not included in the Bill, so even during the course of air transshipment, they are still subject to comprehensive import and export control.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Air Cargo Transhipment (Facilitation) Bill 2000 be read the Second time.

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

SECURITIES AND FUTURES LEGISLATION (PROVISION OF FALSE INFORMATION) BILL 2000

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I move that the Securities and Futures Legislation (Provision of False Information) Bill 2000 be read the Second time.
Since both the market and international monitoring practice are becoming increasing reliant on disclosure of information as a means of protecting investor interest and enhancing market transparency and efficiency, it is essential that the Securities and Futures Commission (SFC) and front-line market operators like the exchanges, clearing houses and approved exchange controllers must be equipped with the capability of ensuring the accurate reporting of information. Under the existing law, other than in some specified circumstances relating to persons applying for registration with the SFC, registrants submitting their annual returns, persons issuing prospectuses and persons assisting in an investigation conducted by the SFC, there are no general offence provisions on the provision of false or misleading information to the SFC and front-line market operators. This has adversely affected the effective performance of these regulatory bodies. In order to enhance the regulatory functions of these bodies, maintain market impartiality and strengthen the protection for investors, the Bill proposes to criminalize the provision of false, misleading or incomplete information to these bodies. The proposal is in line with the regulatory practices in other major international financial markets including Australia, the United States and the United Kingdom.

Under the Bill, offences relating to the giving of false, misleading or incomplete information are divided into two tiers according to the basis on which the information is provided. The first tier concerns the information given to the SFC or any of the front-line market operators pursuant to a provision of an ordinance (Statutory Reporting). The second tier concerns the information given to the SFC or any of the front-line market operators in any other circumstances (General Reporting), provided that the information so given relates to the performance of a regulatory function of the SFC or the front-line market operator in question. The principal ingredients of these offences are that the information is false, misleading or incomplete in a material particular, and that the person providing the information knows that the information provided is false, misleading or incomplete in a material particular, or does not believe that the information provided is true, complete and accurate in every material particular. Under the General Reporting offence provision, the prosecution must satisfy the Court that the SFC or the front-line market operator in question has relied on the information given or the person giving the information did so knowing or intending that the SFC or the front-line market operator in question might rely on that information, or was reckless as to whether or not it would rely on the information. Any contravention of these offence provisions in the Bill may make the offender liable to criminal penalties. This is intended to ensure that the ordinance can achieve sufficient deterring effect.
At a meeting of the Financial Affairs Panel held a couple of days ago, we already explained to Members in detail the objectives and contents of the Bill. I am very pleased to say that all Members present at that meeting were supportive of the Bill proposals. We believe the proposed measures can impart an unequivocal message to the market that false or misleading reporting to the SFC or other front-line market operators will not be tolerated and is to be punished criminally.

The Bill can also help ensure the supply of complete and reliable information to the SFC and front-line market operators, thus enabling them to discharge their regulatory functions effectively. Besides, market information of a higher quality can also be disseminated for the better protection of investor interest and the healthy development of the local securities and futures markets. I therefore call upon Members to support this Bill. Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Securities and Futures Legislation (Provision of False Information) Bill 2000 be read the Second time.

In accordance with Rule 54(4) of the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.

REVENUE BILL 2000

SECRETARY FOR THE TREASURY: President, I move that the Revenue Bill 2000 be read the Second time.

The Revenue Bill 2000 seeks to amend the Stamp Duty Ordinance (Cap. 117) to reduce the rate of stamp duty on stock transactions by 10% from the existing 0.25% to 0.225% per round transaction. The reduction applies to the ad valorem duty rates both on contract notes for sale or purchase of Hong Kong stocks and on certain transfers of such stocks. This is one of the revenue proposals which the Financial Secretary announced in the 2000-01 Budget to this Council on 8 March.
As the Financial Secretary explained on that occasion, the primary purpose of this revenue concession is to help sustain Hong Kong's competitiveness in the global financial marketplace by lowering the costs of stock transactions.

Hong Kong faces increasingly severe competition from other major financial markets, for investment funds and for business in stock transactions. The international trend is to reduce stamp duty and even abolish it altogether, in order to enhance the competitive edge. A number of well-established stock markets, including the United States, Japan and New Zealand no longer charge stamp duty on stock transactions. Singapore has recently abolished stamp duty on sale and purchase of stocks. Austria is planning to abolish its transaction tax on quoted securities in September 2000.

These moves pose a serious challenge to all other exchanges, and Hong Kong is no exception. Bearing in mind that all stock markets share the same stream of capital flow and the same group of investors who see no boundaries to investment opportunities, we need to reduce the stamp duty rate as a concrete step to bring down the cost of stock transactions in Hong Kong if we are to compete with other financial markets and strengthen our foothold in the global financial marketplace.

Lowering the stamp duty rate alone, however, will not be sufficient to achieve the desired competitive impact. As the brokerage commission takes up two thirds of the total transaction cost of stock trading in Hong Kong, we would like to see a concerted effort from the industry to accompany the reduction in stamp duty with a lifting of the current minimum brokerage fee requirement.

It is indeed gratifying that the newly-established Hong Kong Exchanges and Clearing Limited (HKEC) has responded positively to our call. On 8 March, the Chairman of the HKEC issued a consultation paper to the Exchange participants, seeking their comments on a proposal to remove the existing minimum brokerage commission requirement from the Rules of the Exchanges on 1 April 2002. Moreover, the HKEC proposed immediate exemption for transactions on new products under the Nasdaq-Amex Pilot Program and similar pilot programs to be introduced before 1 April 2002. The Exchange participants have been asked to comment on these proposals by 10 April 2000. The importance of this exercise is placed into perspective by the statement in the
HKEC's consultation paper that the 15 largest markets in the world, in terms of market capitalization, have already adopted a system of free negotiation for commission rates, with the exception of Hong Kong and Taiwan, which still impose different commission restrictions. Within Asia, our nearest competitors have also been liberalizing their restrictions on brokerage commission over the past few years. It is obvious that liberalization of controls over brokerage commission is another global and regional trend, in addition to abolition of stamp duty.

Whilst awaiting the final decision of the HKEC, we consider it highly desirable that we complement such efforts by giving effect to the proposed reduction in stamp duty rate as soon as possible.

There has been feedback from some quarters of the business community that a mere 10% reduction in stamp duty on stock transactions is not enough to create any material impact in view of the trend towards stamp duty abolition. However, I wish to point out that stamp duty on stock transactions has long been a significant source of recurrent revenue. The proposal to reduce the stamp duty rate by 10% is estimated to cost $520 million in 2000-01 and a total of $3.5 billion (including consequential interest loss) in the medium range forecast period to 2003-04. In view of our fiscal constraints, we have to strike a suitable balance in the coming year between the need to restore our financial position and the need to upkeep our competitiveness in the stock market. Nevertheless, as stated by the Financial Secretary in the Budget speech, we will sympathetically consider any subsequent request from the industry for future reductions in stamp duty on stock transactions on the basis of the new HKEC's decision on brokerage commissions.

President, with these remarks, I commend the Bill to Members.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Revenue Bill 2000 be read the Second time.

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

SECRETARY FOR SECURITY (in Cantonese): Madam President, I move that the Karaoke Establishments Bill be read the Second time. The Bill seeks to improve fire and building safety in karaoke establishments by providing for licensing control of these premises.

At present, there is no specific control of karaoke establishments, other than some general requirements applicable to the premises in which they are located. For example, as some of the karaoke establishments also serve food and drinks or are attached to clubs or hotels, they are subject to different regulatory controls if:

(I) the karaoke business is conducted in a place licensed as a general restaurant or light refreshment restaurant under the Public Health and Municipal Services Ordinance, or is operated with a liquor licence under the Dutiable Commodities (Liquor) Regulations; or

(II) the karaoke business is conducted within a clubhouse licensed under the Clubs (Safety of Premises) Ordinance, or within a hotel or guesthouse licensed under the Hotel and Guesthouse Accommodation Ordinance.

If a karaoke establishment does not operate as any of the above, it is neither subject to any legislative control nor required to provide any fire safety and public safety measures. As long as it holds a simple business registration certificate, it can conduct this kind of public entertainment business.

Without proper fire safety structures and installations, the fire hazard of a karaoke establishment is by no means negligible in the light of the unique characteristics of its operations. In general, the alertness of the customers may be affected by the consumption of alcoholic drinks and loud music inside the premises. The layout of small clustered cubicles accessed through long and narrow passages will make escape difficult in case of fire. General fire safety provisions cannot adequately address the fire risk associated with the special closed-cubicle layout and unique mode of operation of karaoke establishments. Therefore, we must introduce a set of prescribed minimum standards through a statutory licensing system to ensure that proper fire and public safety measures are provided in these establishments.
We propose that all establishments providing karaoke facilities, whether attached to restaurants or other licensed premises, should be brought under the control of a licensing scheme administered by a licensing authority, that is, all karaoke establishments should be required to obtain a licence or permit for their operations. However, *bona fide* restaurants will be exempted from the licence requirement. By definition, a *bona fide* restaurant is one serving food and drinks as its main business with the aggregate area of all karaoke cubicles not exceeding 30% of its total seating area, and the number of karaoke cubicles not exceeding its total seating area divided by 100 sq m.

The licensing authority will adopt a pragmatic approach in implementing the new licensing scheme. In vetting an application from an existing karaoke establishment which has already been granted a separate licence for the purpose of, for example, restaurant, club, hotel or guesthouse, the authority will streamline the licence processing procedures and reduce the scope of regulatory control by only requiring the applicant to comply with the additional fire safety measures specific to the special layout and operation of the premises. For karaoke establishments in restaurants or premises serving light refreshment, the Director of Food and Environmental Hygiene will act as the licensing authority. For other karaoke establishments, including those attached to hotels or clubs, the Secretary for Home Affairs will be the licensing authority. The "one-stop" approach of placing the licensing responsibility for the same type of premises under the same authority should help avoid duplication of efforts as well as streamline the licence processing procedures so that karaoke establishment operators will obtain the required licences as early as possible.

An applicant for a karaoke licence will be required to meet prescribed fire safety, building safety, public safety and health requirements. However, for existing karaoke establishments, a transitional licence or permit with a grace period of 12 months will be granted to allow time for compliance work. The transitional licence or permit may be extended for a period up to 12 months, if necessary.

To operate a karaoke business without a licence or permit is an offence punishable by law. The licensing authority may issue a direction if a licensee fails to comply with the licensing conditions. The authority may further apply to the District Court for a closure order and prohibit the continuation of business in the premises if the operator fails to comply with the direction.
We conducted a three-month public consultation on the proposed licensing scheme from February to May 1998. The general public and the trade concerned were generally supportive of our objective to improve fire and public safety of karaoke establishments. We continued our discussions with those in the trade and, in response to their requests, refined certain fire safety structure requirements to minimize the financial impact, while maintaining our objective to improve fire safety in karaoke establishments. For example, existing karaoke establishments will not be required to widen the corridor width to 1.2 m if basic fire safety measures have been installed; dead-end situations might be tolerated subject to additional fire safety provisions as may be required by the authority; and as requested by the trade, the aggregate area of corridors will be excluded in calculating the population capacity permitted of the premises. However, after careful consideration, we do not consider it proper to further relax the requirement that partition walls separating the cubicles from the main corridors within a karaoke establishment should have a fire-resistant capability of at least one hour. The one-hour requirement is already the minimum standard for necessary protection of a fire escape route. In case of fire, the fire-resistant partition walls will serve to keep the fire from spreading quickly, so as to allow time for customers to escape and facilitate firemen’s fire-fighting and rescue work.

We consulted the two Provisional Municipal Councils on the licensing scheme in late 1998 and early 1999, while the Legislative Council Panel on Security was briefed in January 1999.

I hope Members will support the above proposal and pass the Bill at an early date. We will give wide publicity to the provisions of the Bill and the licensing conditions so as to facilitate the trade's familiarization and preparation.

With these remarks, Madam President, I beg to move.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Karaoke Establishments Bill be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill referred to the House Committee.
Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Securities (Margin Financing) (Amendment) Bill 1999.

SECURITIES (MARGIN FINANCING) (AMENDMENT) BILL 1999

Resumption of debate on Second Reading which was moved on 31 March 1999


MR RONALD ARCULLI: Madam President, as Chairman of the Bills Committee on Securities (Margin Financing)(Amendment) Bill 1999, I wish to report on the work of the Bills Committee.

The Bill seeks to provide a measure of protection to investors in securities by regulating the activities of those persons who carry on securities margin financing businesses. Members may still recall the problems arising from the lack of regulation of finance companies on their use of the stocks and other securities of clients for securing bank loans. The Bill now before Members is part of the regulatory regime found necessary by a Working Group set up by the Administration in December 1997 to look into the subject.

The Bills Committee is aware that it is an important piece of legislation. While we agree that there should be increased protection for investors through regulating the securities margin finance operators, we also find it necessary to maintain the commercial viability of these operators to meet local market needs. Since April last year, we have held 21 meetings and conducted two rounds of consultation with major groups in the industry and other professional organizations. We also took time to go through the proposed amendments to the Financial Resources Rules (FRR).
Madam President, as the deliberation of the Bills Committee has already been given in the Report tabled in the Council today, I would only focus on the salient points, in particular those areas which have given rise to the need for amendments.

**Exemptions**

The Bill will make it an offence for persons to carry on businesses of securities margin financing unless they are registered as securities margin financiers (SMFs) or as registered representatives of such companies. Several kinds of businesses are exempted from registration, including the provision of financial accommodation by registered dealers, mutual fund corporations, authorized financial institutions and so on. Other than exemptions set out in the Committee stage amendments to be moved by the Secretary for Financial Services, whether other kinds of activities should be exempted would be dealt with on a case-by-case basis by the Securities and Futures Commission (SFC). It would be desirable that the list should be exhaustive so as to minimize the scope of the SFC to deal with unusual and unpredictable cases. In this respect, the Law Society of Hong Kong also put forward suggestions to enlarge the scope of exemptions.

The Administration, however, maintains that the SFC should retain the flexibility in granting exemption to specific classes of persons when experience in regulation may prove it justified for them to do so. It, nevertheless, agrees to our suggestion to extend the scope of exemption to cover proper business activities of market participants. The Secretary for Financial Services will also move Committee stage amendments to clarify the position of an exempted company once registered as an SMF, and put the exempted list under a new schedule subject to the negative vetting of this Council should there be any changes.

The Bills Committee also noted that the Administration proposes to waive the registration requirement for existing finance companies, provided they do not engage in new securities margin financing business except the recovery of outstanding margin loans. These companies are likely to retain under-secured margin loans while the well-secured loans are likely to be transferred back to the securities dealer firms with which they are associated. Although we have pushed for the setting up of monitoring measures, for example specifying a time limit for the recovery of loans, the Administration considers these measures not
practicable and not meeting the needs of these companies. We, nevertheless, note that these companies, though not registered as SMFs, are regulated by other ordinances, such as the Securities and Futures Commission Ordinance, Money Lenders Ordinance and the Bill if enacted by this Council. We, therefore, accept the addition of the new section 121BI which we understand is meant to serve only as a transitional arrangement particularly because we are assured that there is adequate regulatory clot for the SFC should these companies breach the law.

**Purpose of loan**

From the way "securities margin financing" is defined in the Bill, we have doubt if lenders would be able to know to what extent they should be aware of the purpose of any borrowings or financial accommodation lest they fall under the definition and be required to register as SMFs. The Administration agrees to amend section 121C(3) to make it clear that if a lender has a reasonable belief that the financial accommodation is not to be used to facilitate acquisition or the continued holding of securities listed on a stock exchange, he will not be caught by the registration requirement.

**Pooling of clients' assets**

The pooling of clients' assets as collateral for securing financial accommodation has been a practice in the existing market. Under the Bill, pooling of clients' assets is allowed provided the financier has the written authority of the clients. The Administration and the industry are of the view that this practice is crucial to maintaining not only the commercial viability of the securities margin financing business, but also the securities industry.

This issue has been one of the more difficult ones to resolve. During the course of our deliberation, some members have expressed grave concern about the safeguards to protect the interests of the clients. Others, including the Administration and the industry, believe that it is necessary. To arrive at a balanced view that gave investors protection and the industry operational flexibility was no easy task. We also have to take into account the interests of banks which are the ultimate providers of funding. A limit has, therefore, been placed on the proposed amount of credit facilities that can be obtained upon the security of margin clients' securities collateral by a SMF. A lot of discussion has taken place on the limit. The initial proposal put to the Bills Committee by
these individual members was setting the limit at not exceeding at any time the total gross margin loans due from clients. In view of the possible impact that this credit limit may have on the industry, we conducted one round of consultation to gauge the views of the industry and professional bodies. After examining the views received, including those from the Administration, we have concluded that on balancing the level of protection provided to investors and the burden that might be imposed on the dealers, financiers and banks, the credit limit should be set at not exceeding at any one time 120% of the aggregate amount of clients' outstanding loans. This requirement will be incorporated in the Code of Conduct to be issued by the SFC. There will be no amendment to the Bill in this respect. By doing so, we have also resolved a legal difficulty that might arise if there is a breach of the law rather than a breach of the proposed Code.

Agreements with unregistered financiers

Another extremely difficult issue that the Bills Committee had to tackle concerns agreements with unregistered SMFs. We were most concerned over the protection to clients of unregistered financiers. We noted that the relevant provisions of the Bill did not provide adequate protection to clients who entered into agreements with unregistered financiers. Upon the request of the Bills Committee, the Administration has significantly altered the whole Division 4 of the Bill to provide that an agreement made by an unregistered SMF is unenforceable against its client, unless the Court considers that it is just and equitable for the agreement to be enforced, and/or for all or part of the money paid or property transferred under the agreement to be retained. For unenforceable agreements, a client can recover any money paid and compensation for any loss.

Regarding the possibility of lowering the threshold for the SFC to seek injunctions or the appointment of receivers over the assets of unregistered persons for greater protection to investors, the Administration is of the view that the issue cannot be considered in isolation of other securities related regulation. It will be considered under the future composite Securities and Futures Bill.

Other amendments to be moved by the Administration

In the light of the views of the Bills Committee, the Administration has also undertaken to propose amendments during Committee stage to improve on
some of the arrangements proposed in the Bill, including the relaxation of the sole business requirement for the SMFs for incidental businesses, enabling the SFC to suspend the whole or part of the business, and some adjustments to the penalty levels for different offences to ensure that they have sufficient deterrent effect against breaches of the legislation.

**FRR and Commission rules**

The Bills Committee has also examined the policy of the revised FRR to be introduced by the Administration by way of subsidiary legislation. We have expressed concern that some rules like the FRR could be quite complex whilst others must less so. Such rules could also have significant impact on the market. We suggested that the Administration consider adding a clause to the Bill which would enable the Administration to elect whether rules may be made subject to negative or positive vetting by this Council. The concept being that the complicated rules would require positive vetting and the others negative vetting. The Secretary for Financial Services is of the view that the issue of scrutiny of subsidiary legislation should not be considered in isolation in the context of the securities-related rules. The Administration, nevertheless, undertakes to explore further the possible way of providing flexibility under the vetting procedure and will enter into discussions with this Council on the way forward. The Bills Committee accepts that this issue should not be limited to this Bill but should be reviewed in respect of all subsidiary legislation.

Madam President, I am most grateful for the painstaking care which my fellow Bills Committee members have given to the scrutiny of this Bill, which has resulted in the majority of amendments that will be moved by the Secretary for Financial Services at Committee stage. Likewise, we are most appreciative of the input from the securities industry and other professional bodies. Last but not the least, I want to express a personal note of thanks to the Financial Services Bureau and the SFC for their open-mindedness and skilled approach. We believe that the Bill with amendments is better than that in its original form. Madam President, the Bills Committee supports the amendments proposed by the Administration and the Second Reading of the Bill.

Thank you, Madam President.
MR ALBERT HO (in Cantonese): Madam President, I believe Honourable colleagues are aware that this Bill is tabled in the Legislative Council for scrutiny mainly because of the bankruptcy of C.A. Pacific Securities Limited (C.A. Pacific), which has made it necessary for the Government to give serious consideration to a grey area in finance related legislation. Due to such an area, the victims of C.A. Pacific have not been indemnified so far. I hope that upon the passage of this Bill, the relevant loophole can be plugged so that the situation of securities or finance companies not being subject to regulation will not recur and thus cause losses to investors.

It has been a year since the tabling of the Bill in the Legislative Council and we have spent a year scrutinizing it. The Bill contains quite a lot of provisions because it has incorporated a wholesome system to regulate securities margin financiers and makes many ancillary amendments to the Securities Ordinance. The Bills Committee has convened over 20 meetings and carefully examined many complicated and technical provisions. We owe thanks to the Chairman of the Committee who is fairly familiar with the legislation on securities and has made a lot of efforts in reviewing the Bill, and also to Mr FUNG Chi-kin, a representative of the industry, who has also made full use of his market experience in assisting the scrutiny of this Bill. Of course I agree with what the Committee Chairman has just pointed out. Our colleagues in the Financial Services Bureau and the SFC have all along been listening to proposals put forward by Honourable colleagues with an open and attentive attitude and have finally consolidated the relevant ideas and our proposals into amendments to be proposed later on. I appreciate their attitude very much.

Just now the Chairman of the Committee has outlined the main provisions of the entire Bill, including the scope and proposals that we are concerned about as well as the amendments proposed. I specifically raised two subjects worthy of attention for the record. Firstly, the Democratic Party paid much attention to the protection of small investors in scrutinizing the Bill. In the light of the C.A. Pacific incident, we have all along remained doubtful about the margin financiers' pooling of stocks deposited by clients as collateral for facility provided by another financial institution. The reason is that after the stocks are pooled, the financial institution or bank will not care about the identity of the stockholder, but it will only treat the stocks as collateral as a whole. In the
event of any sudden adverse change in the stock market and the bank having the need to dispose of its collateral, the bank will not care about whether the stocks belong to any client. For this reason, there were cases in the past where the stocks of a certain client were used to repay other clients' loans. We consider it extremely unfair that the securities of clients have become collateral of other clients or have been used to support other investors in the financier's consolidated account.

It is believed that those engaging in the professions will also know that the accounts of clients should be clearly separated. We do not wish to see that the money of some clients is used to support other clients' investment or used for other loan purposes. We hope this is prohibited by legislation so that for the sake of protecting a client's interests, this is not allowed even though he has given his consent. However, we realize that the industry has voiced strong opinions. The industry agrees to stick to the principle that the investment of clients should be managed under separate accounts, but when clients' assets are submortgaged to a bank, they believe that the bank will not agree to dealing with the accounts separately because this will complicate the transaction. During the whole transaction process, the bank will only pool the stocks to evaluate the risk before granting loans and will be reluctant to deal with the accounts on an individual basis. The industry therefore agrees to observe the rules by recording the loans of clients. In the event of a drop in the price of clients' stocks or collateral, they will exercise the power vested in them under the agreement and sell the collateral in time to make up for the debt. They will try their best to prevent the collateral of clients from being used to support other loans that do not belong to the collateral owner. They point out that if the pooling practice is abolished, the industry might not possibly operate as a result because small and medium financiers are in the majority in the current market of Hong Kong. Most of them rely on bank loans. If the pooling of stocks for securing loans is not allowed, it will stifle the existence of the industry leading to bankruptcy of many companies. The industry also points out that the situation of Hong Kong is different from that of Japan, London, New York, and so on. Most of the financiers in Hong Kong are small and medium enterprises. In addition, government officials have reiterated to us that currently the supervisory framework has incorporated various measures to enhance risk management, so the financiers have now taken many measures to protect the property of clients in order to avoid unnecessary risks.
Under the circumstances, I can only trust the professional evaluation of the Government. Of course, the industry has its own view on the issue and they hope the market can be given more flexibility. I do not mean that the industry is being selfish and not heeding the interests of investors at all. The industry certainly hopes to have room for existence so that the market will not be stifled. However, I think the Government must consider the interests of investors through its professional knowledge and the assistance of the SFC. Finally, I can only trust the information and judgment given by the Government and the SFC. They consider that adequate risk management is in place already and that a prohibition of the pooling of stocks will stifle the operation of the market. I therefore accept the Government’s advice and will not propose amendments to prohibit the pooling of stocks. We have spent a long time discussing the issue, so I must give an explanation for it, especially when I am deeply impressed by the C.A. Pacific incident and I have provided assistance to many victims. I do not wish to see a recurrence of similar incidents.

Secondly, regarding the submortgage of collateral, in my opinion, a margin financier submortgages stocks because it is necessary for him to rely on bank funding for borrowing purposes. An investor needs funds, so he mortgages his stocks to a financier, but the financier cannot provide sufficient funds and therefore submortgages the stocks to a bank so that he can obtain loans to be provided to the investor-cum-stockholder. Of course we accept this principle, but we think that the financier should not secure extra loans from the bank for his own use or provide loans to a third party other than the investor. In addition, the amount of loans that the financier borrows by offering collateral to the bank should be no more than the total amount advanced to the investor or collateral owner, otherwise the possibility that the financier uses the difference in loans for his own investment or for further lending to a third party cannot be ruled out. The occurrence of the C.A. Pacific incident was due to the fact that the company had lent money to a third party for investment in property projects resulting in loss while these loans were not available for use by stock investors. We therefore suggest that there should be no difference in loans.

In fact, we know that the financial market in Singapore has similar rules. On this point, the Government has consulted with the industry. The industry finds that in principle it cannot oppose the suggestion and considers our suggestion to be correct. However, the industry indicates that immediate legislation might exert pressure on them, which I do not fully understand. However, they hope that they will be given time to sort out the relevant issues.
Perhaps currently there is no such rule, so some of the securities firms still grant such loans. They agree to incorporate this point into the Code of Conduct, but they request that a 20% "cushion" be added. Actually the Democratic Party only accepts the suggestion with reluctance. But the Democratic Party must admit that unlike Mr FUNG Chi-kin and Mr Ronald ARCULLI, most of us are unfamiliar with the market. If our introduction of legislation deals a great blow to the industry and is likely to produce certain results, then we must be very careful when introducing amendments. Since the Government is willing to incorporate this point into the Code of Conduct, we also hope that the Secretary will review the extent of compliance with the Code of Conduct by the industry in two years and then decide whether to legislate. Given that the Government is willing to take a step forward by including the suggestion in the Code of Conduct and indicates that the Code will be respected and implemented in many cases, we consider this an expedient measure so that the industry can be given room for adjustment. In that case, the Democratic Party does not wish to propose any amendments to this issue that has significant impact on the market. I trust the judgment of the Government and expect the Government to conduct a review within two years.

Thirdly, just now the Chairman of the Committee also mentioned the subsidiary legislation under this law, especially the procedure for enactment and amendment of the Financial Resources Rules. During the course of deliberation at the meeting, we were given to understand that these rules are very complex. Actually we are very worried about subjecting the relevant subsidiary legislation to negative vetting (I refer to it as the "negative vetting procedure" for the moment) because the relevant subsidiary legislation will be gazetted for 28 days. In a consultation period of such short duration, the relevant subcommittee will be making a lot of efforts in its scrutiny work. We have considered that if the Government fails to make out in what circumstances the positive or negative vetting procedure should be followed, we suggest that the positive vetting procedure be adopted without exception. But the Secretary and the SFC became agitated over the suggestion and considered that it might have significant impact. It is necessary for them to introduce many rules that are highly sensitive in the financial aspect, so they do not wish to see any change in arrangements during the consultation period. In this connection, the Government will table a composite Bill in the Legislative Council, hoping to conduct a further comprehensive review at that time and examine if there is any better approach. In the meantime, the Government wishes to retain the negative vetting procedure, but the Secretary has given a very clear commitment; that is,
except for some information which is highly sensitive and cannot be disclosed in advance, in the event that the Administration wants to propose any amendments which will have significant impact on the industry or which are more complex, they must be submitted to a panel of the Legislative Council for consultation first. I hope the Secretary will stick to his undertaking. Notwithstanding that the Legislative Council Election will soon commence and I wonder who will remain in office in the next Session, I believe that with the details on record, the Government will surely keep its promise and provide protection for the industry.

I so submit. Thank you, Madam President.

MR FUNG CHI-KIN (in Cantonese): Madam President, first of all, I must declare my interest as a member of the industry so this Bill is directly related to me. I wish to thank Mr Ronald ARCULLI, Chairman of the Bills Committee, and Mr Albert HO for the many views they expressed earlier on. Taking an understanding attitude, they endorsed the draft of the Bill whilst urging the Government to conduct a review in future.

It has been two years since the C.A. Pacific incident, and it was a year ago when the Bill was tabled for First Reading. The introduction of the Bill can be considered as a remedial measure. First of all, the C.A. Pacific incident pointed to the fact that our monitoring regime had failed to keep pace with market developments. Stock trading by way of margin facilities has been a long-standing practice. Perhaps it was because many people were engaged in margin trading during the financial turmoil in 1997 that the serious C.A. Pacific incident finally broke out, prompting the Government to enact laws urgently. Of course, I am no legal expert and I am still in the process of learning. But I have examined the application of the Bill in a regulatory context, which is of great concern to me, in my capacity as the representative of the industry. I am grateful to the Government and the Bills Committee for listening to the views of the industry many a time, fully considering our situation and taking on board a rather substantial part of our recommendations. My thanks also go to the Democratic Party for being understanding, trying to satisfy the demand for a certain degree of commercial viability for the industry.
Indeed, the introduction of draconian laws basically can stamp out unregulated operations. But on the other hand, in an open and free society, I am worried that many businesses may be driven to overseas or offshore markets eventually. In that case, all we could do is to adopt an attitude of "what fails to catch the eyes is regarded as clean". Therefore, in order to step up regulation and at the same time safeguard the interest of investors, the Administration must carefully consider how legislation should be introduced. After spending a year's time, I think we have tried to take one step forward on striking a balance between protection for investors and commercial viability of the industry.

The industry is concerned that under such draconian laws and the sole-business mechanism, coupled with so many onerous restrictions, the formulation of the Financial Resources Rules (FRR) will be subject to the Government and the Securities and Futures Commission. I do not agree that the FRR should be subject to the positive vetting of this Council every time, but on behalf of the industry, I call on the Administration to keep the industry fully informed of the blueprint of the FRR in order to facilitate the smooth implementation of the rules in future and to avoid inadvertent violations by members of the industry. In fact, we are very worried because under the new legislation and the new FRR, we may need a huge capital to maintain the existing scale of business. Moreover, with the requirement of stringent regulation over single client and single stock, many members of the industry hold that few financiers can continue with their operations. We shall wait and see if this will be the case in future.

Therefore, from the industry's point of view, we must consider two questions. The first is whether the relevant legislation is so draconian as to stifle the commercial viability of the industry, making the entire market not too active? It is true that an over-active market is undesirable. But an inactive market, similar to that in the past two years when, despite a pick-up in the economy, financing activities had slackened drastically in the market pending the enactment of the Bill, will affect the turnover of the entire market to a certain extent.

As for the pooling of stocks — I am grateful to Mr Albert HO who accepted the views of the industry although he still does not understand our situation very well — banks have actually been doing the same. The taking of deposits by banks is considered a way of pooling, only that banks operate on a larger scale. But is it that the Government does not allow banks to go bankrupt? Notwithstanding declaration of risks, the Government could do nothing at all should banks collapse. Therefore, on top of the requisite capital, the internal
risk management of a finance company is also pivotal to a sound money-lending operation. Without good internal risk management, no one could possibly make amends however draconian the laws are if a company was caught in a crisis overnight. On this issue, we have spent lots of time on discussions and we hope that the great majority of the industry can comply with the new rules in their operations. We, however, cannot guarantee that there will not be black sheep. So, will Mr Albert HO please not push the Secretary too hard, saying that his support for the Bill hinged on his faith in the Government for there are unpredictable circumstances. While I believe that members of the industry will not adopt such an attitude, there may be cases in which the operator tried in vain to contact the margin client, to suggest a liquidation of the margin account. As a result, the margin account could not be liquidated on time, in which case the losses would really have to be settled but the money required to make up for the losses should be recoverable. Certainly, the operator will leave no stone unturned to resolve the problem, such as settling the account by liquid capital or other means, or else the operation cannot possibly continue. So, if the Bill is enacted, operators will be required to comply with the statutory restrictions within a very tight timeframe. Judging from this point, it is not just a question of pooling, but also internal risk control which is highly complicated. For this reason, I very much agree that the future Code of Conduct can specify in greater length the ways to better risk management of the operation of a company and of a particular stock of a client.

On the other hand, the industry is actually very concerned about the various restrictions in the FRR. But certainly we have to see how things develop after the actual implementation of the rules. If it is found that compliance with some of the restrictions involve complications, it is hoped that the Government can conduct a review with the industry expeditiously to maintain viability of the market.

I have expressed some of the views of the industry in these two aspects. Nevertheless, the existing legislation has not resolved problems concerning the compensation mechanism. In the event of the collapse of a financier, the existing compensation mechanism of the Unified Exchange does not cover this type of operation. But Members can rest assured as I trust that many securities brokers will operate in the name of securities firms, not by way of setting up independent finance companies. A merger after segregation may involve a massive capital input. For instance, merging computer systems requires a massive capital input and a time-consuming adaptation process. I think a
message must be put across to the industry clearly as soon as possible. That is, if margin trading is conducted in the name of a securities firm, the operator should consider problems associating with adjustments in various areas, say, adaptation of internal systems. If it is conducted in the name of a finance company, the relevant operation will be subject to a host of statutory provisions, but insofar as compensation is concerned, it appears that the investors of these companies are not protected at this stage insofar as compensation is concerned.

With these remarks, I support the Second Reading of the Bill. Thank you, Madam President.

MR JASPER TSANG (in Cantonese): Madam President, after listening to the speeches of the Chairman of the Bills Committee and two Honourable Members, namely, Mr Albert HO and Mr FUNG Chi-kin, I believe that Honourable colleagues and members of the public will understand why it took so long for the drafting and deliberations of the Bill. The reason is that not only numerous technical issues are involved, but as intimated in the speeches of Mr HO and Mr FUNG, we also need to strike a balance between stepping up regulation and maintaining commercial viability for the operators, which is a tall order.

In his speech just now, Mr Albert HO considered the issue more from the angle of protecting small investors, whereas Mr FUNG reflected the views of the industry as a matter of course. I am not a member of the industry but I wish to say a few words for the industry. The Bill seeks to bring securities margin financing activities under regulation, with a view to deterring over-aggressive borrowing activities which will adversely affect the interest of investors. As explained by Mr FUNG Chi-kin just now, I think Members will appreciate that it is not our intention to impose regulation to such extent that the viability of the industry will be in jeopardy. In considering the governing legislation, I think it is utterly important to allow commercial viability for the industry.

Under the Bill, margin financiers are required to register with the SFC and comply with the sole-business requirement. They are also subject to the FRR and must meet the minimum paid-up capital and minimum liquid capital requirements, and so on. The Democratic Alliance for the Betterment of Hong Kong (DAB) is supportive of all these requirements. We consider that these requirements can ensure proper regulation of securities margin financing activities. They can also upgrade the regulation of such activities to a level on a
par with other financial products in Hong Kong, thus ensuring consistency under the financial regulatory regime.

However, we note the concerns of the industry over the implementation of the FRR. Local small and medium sized securities firms, in particular, are worried that the various restrictions would make it impossible for them to carry on with their operations, or that they might easily commit technical mistakes since they are unfamiliar with the rules and would be frequently taken to task. Therefore, we are concerned about how we can ensure sufficient technical support and advice for the industry so as to enhance their ability to monitor risks. We hope that the Government can take the initiative to understand the situation of the industry and the new problems and difficulties faced by the industry, and provide them with assistance accordingly.

In the meantime, I also wish to make one point. Companies which engage in securities margin financing activities will come under the regulation of the SFC after the enactment of the Bill. According to our observations and judging from the present circumstances, there is still room for improvement in the co-operation between the SFC and the securities and futures industry (particularly local small and medium sized companies). Will new conflicts be created after the securities margin financing activities are brought under the ambit of the SFC? Some members of the industry already expressed concern about the excessive powers of the SFC or their hands being tied with the SFC keeping a tight rein on them. We do not hope that this will lead to undue tensions in the relationship between the industry and the SFC. We hope that the SFC can enhance its communication with the industry to have more in-depth understanding of the problems faced by the industry in their operations. It is hoped that they can work in concert to reach a consensus on regulatory matters and establish a partnership relationship.

The DAB believes that stepping up regulation over securities margin financing activities is in the interest of investors as well as the overall interest of society. The enactment of the Bill should mark one step forward in the reform of the financial market in Hong Kong. On behalf of the DAB, I speak in support of the Second Reading of the Securities (Margin Financing) (Amendment) Bill 1999. Thank you, Madam President.
PRESIDENT (in Cantonese): Does any Member wish to speak?

(No Member responded)

PRESIDENT (in Cantonese): Secretary for Financial Services, do you wish to reply?

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, the Securities (Margin Financing) (Amendment) Bill 1999 was read the First time on 31 March last year. As I pointed out at that time, our policy objective is to enhance the protection for investors through prudent regulation of securities margin finance operators while maintaining market stability and commercial viability to meet market needs.

The Bill brings securities margin financing activities and their operators clearly into the purview of the Securities Ordinance, thereby subjecting them to the regulation by the SFC. The Bill also sets down the rules governing their business operation. The Bills Committee spent nearly one year and held 21 meetings on scrutinizing the policies and provisions of the Bill. The contents of the Bill are very complex and extremely technical, and this compounded the difficulties encountered during the scrutiny process. I therefore wish to take this opportunity to express my gratitude to all members of the Bills Committee, in particular its Chairman, Mr Ronald ARCULLI.

As I pointed out just now, the Bill aims to strike a proper balance between protection for investors through prudent regulation on the one hand and commercial viability to meet market needs on the other. I am glad that members of the Bills Committee also recognized these two objectives and used them as the basis of consideration during their scrutiny of the various provisions of the Bill. We are sure that the final proposals of the Bills Committee and the Committee stage amendments I am going to move later on will all be able to achieve these objectives; they are able to balance the needs of the different sides and are in line with the best interests of the local securities market. So, I am sure that they will command Members' support.
Another contentious issue covered by the Bill concerns whether or not securities dealers and securities margin financiers should be permitted to continue the practice of pooling their margin clients' assets. As I pointed out in the Legislative Council Brief on the Bill, before the Government conducted the public consultation exercise in May 1998, it had already considered the matter thoroughly and come to the conclusion that given the existing mode of operation of most securities dealers in Hong Kong, disallowing the pooling of clients' assets may well render most margin financing operations in Hong Kong commercially non-viable. Under the regulatory regime proposed by the Bill, the pooling of clients' assets may continue as long as it can be made sure that the companies concerned have enough capital, that they can at the same time provide better protection to their clients, and that their clients are adequately informed of the risks involved. Therefore, after weighing the commercial viability of securities margin financing business against the protection of investor interests, we have decided not to prohibit the pooling of clients' assets in the Bill.

The Bills Committee held many discussions on this, and also invited representatives of the industry to express their views. Members were generally of the view that the pooling of clients' assets was vital to maintaining the commercial viability of securities margin financing. But they expressed equal concern about the provision of adequate protection for clients. Following detailed and prudent consideration, the Bills Committee agreed not to prohibit the pooling of clients' assets in the Bill. However, in order to enhance the protection for investors, the Bills Committee suggested the SFC to lay down a provision in the Code of Conduct on securities margin financing, to the effect that the amount of credit facilities that can be obtained upon the security of margin clients' securities collateral by a securities dealer or securities margin financier should not exceed 120% of the aggregate amount of their clients' outstanding loans. The SFC accepted the suggestion of the Bills Committee and agreed to incorporate such a provision in the Code of Conduct to be drawn up following the enactment of the Bill. We will also review this provision two years later.

Besides, as mentioned by Mr Ronald ARCULLI and Mr Albert HO, the Bills Committee also discussed the scrutiny procedure relating to the subsidiary legislation of the Bill. Under the existing Securities Ordinance (Cap. 333), the Securities and Futures Commission Ordinance (Cap. 24) and other relevant legislation, the SFC is empowered to draw up the relevant subsidiary legislation. And, in accordance with the Interpretation and General Clauses Ordinance (Cap.
1), such subsidiary legislation must be subject to the approval of the Legislative Council through the negative procedure.

During the deliberations of the Bills Committee, some Members expressed the view that the existing procedure might be somewhat inadequate, especially in the case of some complex subsidiary legislation, where Members might not have enough time for scrutiny. Hence, some Members proposed to amend the procedure, so as to subject all the relevant subsidiary legislation to the approval of the Legislative Council by way of resolution.

All along, the Financial Services Bureau has been adopting a prudent and pragmatic attitude towards the making of subsidiary legislation under the ordinances relating to the securities and financial markets. Before it submits any complex and non-urgent subsidiary legislation to the Legislative Council for approval through the negative procedure, it will always consult the Council through various different channels beforehand. And, as far as possible, Members will be given enough time to consider the relevant subsidiary legislation before their formal gazettal. However, since flexibility to deal with emergency situations must be required for the smooth operation of a regulatory regime, and, in particular, since fluctuations and crises in the securities and financial markets often crop up without any signs, the regulatory body must be given sufficient powers to draw up subsidiary legislation for quick or even instant implementation. The absence of such flexibility will greatly curtail the ability of the regulatory body to deal with emergencies. That is why we think that it is necessary to retain the negative procedure for subsidiary legislation under the existing ordinance. Moreover, as the issues dealt with by this type of subsidiary legislation are generally technical and onerous in nature, it may not be appropriate to subject them to the approval of the Legislative Council by way of resolution.

For the implementation of the proposed regulatory regime, in addition to this Bill, we also need to amend other subsidiary legislation under the Securities Ordinance and the Securities and Futures Commission Ordinance, one notable example being the Financial Resources Rules (FRR). In view of the complexity of the FRR and its significant role in the whole regulatory regime, we also submitted the draft FRR to the Bills Committee for reference — I believe Mr FUNG Chi-kin will still remember this — and we also offered a detailed account to the Bills Committee on the contents of the major amendment proposals relating to the FRR. We also invited representatives from the
industry to give their views on these proposed amendments at the meetings of the Bills Committee.

The Financial Services Bureau will certainly continue to adopt the practice I have mentioned; it will certainly continue to consult the Legislative Council as far as possible before putting forward any complex or non-urgent subsidiary legislation in the future. Besides, the Government also appreciates the concern of Members in this respect, and will thus give further thoughts to the possibility of extending the time limit on negative vetting stipulated under section 34(4) of the Interpretation and General Clauses Ordinance.

The Bills Committee also conducted very detailed discussions on other proposals made in the Bill. The Government will move a number of Committee stage amendments in response to some of the recommendations made by the Bills Committee. I shall give Members a detailed account of these amendments later on.

Madam President, I wish to call upon Members to support the Second Reading of this Bill and the amendments to be moved by the Government later on. Thank you, Madam President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Securities (Margin Financing) (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

SECURITIES (MARGIN FINANCING) (AMENDMENT) BILL 1999

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Securities (Margin Financing) (Amendment) Bill 1999.

CLERK (in Cantonese): Clauses 1 and 4 to 7.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move that clause 2 be amended as set out in the paper circularized to Members.

The object of this amendment is to introduce technical amendments to a number of definitions laid down in the Bill. Besides, the definitions of "group of companies", "margin ratio" and "margin value" are also added to enhance the clarity of the Bill. I believe that the amendment will be supported by the Committee.

Thank you, Madam Chairman.

*Proposed amendment*

**Clause 2 (see Annex III)**

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Financial Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clause 2 as amended.
CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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


SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, since the Rules of Procedure stipulate that any proposed new clause shall be considered after the clauses of a bill have been disposed of, may I seek your consent to move under Rule 91 of the Rules of Procedure that Rule 58(5) of the Rules of Procedure be suspended in order that this Committee in Council may consider new clause 3A ahead of the remaining clauses of the bill.

    Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): Secretary for Financial Services, as only the President may give consent for a motion to be moved, without notice, to suspend the Rules of Procedure, I order that Council do now resume.

Council then resumed.

PRESIDENT (in Cantonese): Secretary for Financial Services, you have my consent.
SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I move that Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider new clause 3A ahead of the remaining clauses of the Bill because new clause 3A is related to proposed section 121B in clause 3.

Thank you, Madam President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Rule 58(5) of the Rules of Procedure be suspended to enable the Committee of the whole Council to consider new clause 3A ahead of the remaining clauses of the Bill.

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

(Members raised their hands)

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

(No hands raised)

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

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Council is now in Committee.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move that new clause 3A, as set out in the paper circularized to Members, be read the Second time.

The object of new clause 3A is to add a Schedule 4 to the Securities Ordinance, specifying the kinds of activities exempted from Part XA. These exempted activities were set out in the proposed section 121B under clause 3 of the original Bill. During the deliberations of the Bills Committee, Members expressed the view that the inclusion of these exempted activities in a Schedule would give added flexibility to the SFC when it revises the list of exempted activities in response to market changes. This view is shared by the industry, which is why I do urge Members to support this motion.

Thank you, Madam Chairman.

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 3A be read the Second time.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): New clause 3A.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move the addition of new clause 3A to the Bill and the amendment to proposed section 121B in clause 3, as set out in the paper circularized to Members.

The proposed section 121B in clause 3 and new clause 3A relate to the scope of application of the proposed Part XA and its list of exempted activities. As I said when moving the Second Reading of new clause 3A, the exempted activities in question were originally listed in the proposed section 121B(2) of the Bill. As amended, the proposed section 121B(2) provides that Part XA shall not apply to the activities set out in new Schedule 4. At the same time, the proposed section 121B(4) provides that the SFC may amend any of the provisions of new Schedule 4 by way of Gazette notices for the purpose of enhancing the flexibility of the SFC to amend the list of exempted activities in response to market changes.

With these remarks, Madam Chairman, I urge Members to support the motion. Thank you, Madam Chairman.

Proposed addition and amendment

New clause 3A (see Annex III)

Clause 3 (see Annex III)

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That new clause 3A be added to the Bill, and the amendment to proposed section 121B in clause 3 be passed.

CHAIRMAN (in Cantonese): Does any Member wish to speak?
(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move the amendments to proposed sections 121C, 121D, 121E, 121F, 121G, 121H, 121J, 121R, 121S, 121U, 121V and 121W in and the addition of new section 121WA to clause 3, as set out in the paper circularized to Members.

Section 121C proposed under the Bill provides that no persons other than registered securities margin financiers shall engage in securities margin financing in Hong Kong. We propose to add a defence provision to the effect that if a person who provides financial accommodation has a reasonable belief that it is not to be used to facilitate the acquisition or continued holding of securities listed on a stock exchange, the person does not contravene section 121C.

Moreover, in response to the views of the industry, we also propose to amend section 121E to allow registered securities margin financiers to operate other businesses which are incidental to their normal course of securities margin financing.

During the course of deliberations, members of the Bills Committee
expressed concern about whether or not a suspended financier could continue a diminished operation necessary for serving the interests of its existing clients. To allay their anxieties in this respect, we propose to add new section 121WA to empower the SFC to allow a suspended financier to carry on the parts of their businesses which were necessary for serving the interests of their existing clients. Any person who contravenes the directions of the SFC and engage in businesses other than specified in the directions will be liable to the same penalties accorded to the conduct of securities margin financing without registration.

The rest of the amendments are either technical in nature, or aim to increase the relevant penalties to achieve a stronger deterrent effect.

With these remarks, Madam Chairman, I urge Members to support the motion. Thank you, Madam Chairman.

*Proposed amendment*

Clause 3 (see Annex III)

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Financial Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**CHAIRMAN** (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.
SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move the amendments to proposed sections 121Y, 121Z, 121AA and 121AB in clause 3, as set out in the paper circularized to Members.

On the amendment to section 121AA, we will, apart from making certain technical amendments, provide in express terms under subsection (5) that renewal on a yearly basis is not required for an authority given to a financier by a client under subsection (4) authorizing disposition of securities collateral as deposited with the financier where the client is in default, in order to protect the interest of the financier in respect of the securities collateral. Other amendments include technical ones and those seeking to increase the levels of penalty under the relevant provisions or to enhance their deterrent effect.

With these remarks, Madam Chairman, I urge Members will support this motion. Thank you, Madam Chairman.

Proposed amendment

Clause 3 (see Annex III)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Financial Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)
CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move the amendment to Division 4 in clause 3, as set out in the paper circularized to Members.

The purpose of Division 4 is to deal with agreements signed with unregistered financiers, with a view to providing protection for the clients concerned. Under the original proposals of the Bill, clients shall enjoy the right to rescind contracts entered into with unregistered securities margin financiers in connection with the business of securities margin financing unless the rescission of the contracts would prejudice the rights of bona fide third parties. Given the complexity of the legal issue involved in the rescission of contracts, after giving further consideration to the matter and having regard for the relevant draft provisions proposed in the United Kingdom, the Government and the SFC have come to the conclusion that it should be more effective to make it unenforceable by the unregistered securities margin financiers the agreements they have entered into with their clients. For this reason, we propose to replace the original Division 4 with the new one. We have also consulted with the industry on the proposed new Division 4 and submitted the proposed amendments to the Bills Committee for examination in detail.

Under the new Division 4, upon commencement of the Ordinance, agreements entered into by unregistered securities margin financiers with their clients in connection with the business of securities margin financing shall be unenforceable against the clients under clause 141AD(1). Moreover, a client shall have the right to recover any payments made under or transferred under the agreements concerned or any other property that he no longer possesses as a result of other circumstances. In addition, the relevant client is also entitled to claiming compensation for any losses incurred as a result of the non-registration of the securities margin financier. Clause 121AE of the Bill stipulates that under certain circumstances, either of the parties to the agreement may petition the Court to make the agreement enforceable. The enforcement conditions that the Court must take into consideration include the questions whether it is fair and equitable to enforce the agreement; whether the securities margin financier concerned has reasonable ground to believe and truly believes that the agreement he entered into is not in breach of the Bill or any other relevant provisions; and
whether the client concerned was aware that the securities margin financier had not yet registered when making the payment or transferring the property.

We believe that the new Division 4 could provide additional protection for clients who have entered into agreements with unregistered securities margin financiers. However, as I said just now, this Division is applicable to those agreements entered after the commencement of the Ordinance. In order to safeguard their own interests, investors who are currently using securities margin financing services should check whether the securities margin financing companies or securities margin financiers concerned have been registered with the SFC, and whether they are conducting businesses in compliance with the orders of the SFC. Upon commencement of the Ordinance, concerned parties may make inquiries at the SFC or visit the SFC website on the Internet to acquire the relevant information.

With these remarks, Madam Chairman, I urge Honourable Members to support the proposed amendment. Thank you, Madam Chairman.

Proposed amendment

Clause 3 (see Annex III)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Financial Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)
CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move the amendments to proposed sections 121AK, 121AS, 121AT, 121AY, 121AZ, 121BA, 121BB, 121BC, 121BD, 121BE, 121BF, 121BG and 121BH in, and the addition of new section 121BI to clause 3, as set out in the paper circularized to Members.

Section 121BH provides for the transitional arrangements for the new regulatory regime. Under this provision, any person who has been conducting securities margin financing businesses before the commencement of the Bill may apply within 30 days immediately after the commencement of the Ordinance to the SFC for registration as securities margin financiers. During the period when their applications are still being processed, the applicants concerned may still conduct businesses, provided that they are carrying out the business activities in strict compliance with the orders issued by the SFC and in the manners it specifies.

The proposed amendment stipulates that the penalty levels for failure to comply with the orders made by the SFC shall be equivalent to the penalty levels for conducting securities margin financing businesses without registering as securities margin financiers. Moreover, we will also request the SFC to make its best effort to process and approve the applications for registration within a reasonable time limit, thereby completing the transitional arrangements. As regards the finance companies currently conducting securities margin financing businesses, some of them may choose to cease the relevant operation upon enactment of the Ordinance. The SFC expects that some of the finance companies associated with securities dealer firms may transfer the performing and well-secured margin loans back to the securities dealing entity leaving themselves with the under-secured ones, so that they can continue recovering the outstanding margin loans and collecting the interests accrued. For this reason, we propose to add section 121BI to waive the registration requirement for such companies. However, these finance companies are not allowed to engage in new securities margin financing activities except the recovery of outstanding margin loans and collection of interests accrued.
With these remarks, Madam Chairman, I urge Honourable Members to support the amendment. Thank you, Madam Chairman.

*Proposed amendment*

Clause 3 (see Annex III)

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Financial Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 3 as amended.

**CHAIRMAN** (in Cantonese): Will those in favour please raise their hands?

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

(No hands raised)

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

CLERK (in Cantonese): Schedules 1 to 4.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam Chairman, I move the amendments to Schedules 1 to 4, as set out in the paper circularized to Members.

The proposed clause 81 under Schedule 1 provides for the regulatory regime regarding the safe custody of clients' securities by securities dealers. I propose to add a new subclause (4A) to clarify that subclause (4) does not affect the right of a dealer to sell or to dispose of the securities of a client in settlement of any liability owed by the client to the dealer for dealing in securities. As regards the proposed new subclause (4B), it seeks to enable a dealer to loan out under the subclause the securities concerned with the clients' written authority. In this connection, the clients' written authority must be renewed and signed annually. The proposed clause 81A deals with the disposition of clients' securities collateral by securities dealers. We propose to incorporate into clause 81A an additional provision similar to clause 81(4A) to clarify the right of a dealer to dispose of the securities collateral of a client in settlement of the client's default.

Besides, we propose to incorporate new clause 1A into Schedule 3 to introduce consequential amendments to section 3(1) of the Banking Ordinance to stipulate that the sum of money deposited by a client at a registered securities margin financier shall be exempted from the restrictions of the Banking Ordinance. We also propose to amend clause 3 of Schedule 4 to stipulate clearly that the written authority a securities dealer obtained from his client under the existing section 81(3) of the Securities Ordinance shall remain in force for three months after the commencement of the Bill, and that a dealer does not contravene the new clause 81A during the transitional period when acting in
accordance with such authority. As regards the rest of the proposed amendments, they are all technical in nature.

With these remarks, Madam Chairman, I urge Honourable Members to support the proposed amendments. Thank you, Madam Chairman.

Proposes amendments

Schedule 1 (see Annex III)

Schedule 2 (see Annex III)

Schedule 3 (see Annex III)

Schedule 4 (see Annex III)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Financial Services be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.
CLERK (in Cantonese): Schedules 1 to 4 as amended.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill


SEcurities (MARGIN FINANCING) (AMENDMENT) BILL 1999

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, the

Securities (Margin Financing) (Amendment) Bill 1999

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.
PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Securities (Margin Financing) (Amendment) Bill 1999 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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


Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Education (Amendment) Bill 1999.

EDUCATION (AMENDMENT) BILL 1999

Resumption of debate on Second Reading which was moved on 15 December 1999

PRESIDENT (in Cantonese): I have permitted Mr YEUNG Yiu-chung, Chairman of the Bills Committee on Education (Amendment) Bill 1999, to address the Council on the Committee's Report.

It is stipulated in the Codes of Aid for aided primary, secondary and special schools that a teacher shall retire at the end of the school year in which he reaches the age of 60. However, the Director of Education may, on the recommendation of the School Management Committee (SMC) and subject to the submission of a satisfactory medical certificate as to fitness, exercise his discretion and permit a teacher to continue in service until he reaches the age of 65. In respect of an application filed by a principal of an aided secondary school and a manager on behalf of the SMC of the same school, the High Court ruled on 25 June last year that section 57 of the Code of Aid for Secondary Schools regarding the retirement of teachers at 60 did not apply to the principals of aided secondary schools. The Administration believes that this ruling is equally applicable to principals of aided primary and special schools.

The Bill seeks to give legal backing to the retirement policy to enable the Administration to enforce the relevant policy.

The Bills Committee has held four meetings. Members support in principle the retirement policy of setting the retirement age at 60 and permitting an extension of service until the age of 65 at the discretion of the Director of Education. However, their views differ on the assessment mechanism for the applications for extension of service and the enforcement of the retirement policy. I will now give a summary of the deliberations of the Bills Committee.

In terms of the assessment of applications for extension of service, members are of the view that objective, transparent and clearly prescribed procedures and criteria must be available in the overall mechanism. The Administration has advised that after the enactment of the Bill, the Education Department (ED) will request SMCs of aided schools which wish to apply for the continued service of their principals/teachers beyond the age of 60 to first conduct a selection exercise to identify suitable replacements in accordance with the procedures and criteria recommended by the ED. If no suitable replacement can be found, the SMC may then make an application for extension of service. These applications will be considered by a panel tasked to advise the Director of Education on whether the applications should be approved.
Some members have questioned whether it is necessary for the recommended procedures of the selection exercise to allow an ED representative to join the selection panel set up by the SMC as an observer if necessary. The Administration has explained in writing that the Director of Education needs to be able to collate information in order to assess the relevant applications. Generally, the Director will only send observers to observe the selection exercise at the invitation of the SMC concerned, when reports have been received that the selection process is not conducted in an open, fair and/or transparent manner, or when the school concerned has been the subject of similar previous complaints.

In terms of the enforcement of the retirement policy, members have expressed concern that there may be insufficient time for the SMC of an aided school to make an application for extension or for the Director of Education to determine whether or not to permit such application before the commencement of the next school year following the passage of the Bill. Having carefully considered the matter, the Administration has decided to follow the Bills Committee's recommendation and propose a Committee stage amendment to the effect that serving principals/teachers in aided schools who are over 60 years old when the 2000-01 school year commences may continue to be employed for that school year.

The Bills Committee is of the view that the retirement policy should not be applicable to teachers whose employment does not involve government grant. Members have also expressed concern that rigid enforcement of the retirement policy will create operational difficulties for schools which need to employ temporary teachers. Taking into account members' views, the Administration has decided to move Committee stage amendments to the effect that aided schools may employ a person who is over 60 years old as a temporary replacement of a teacher who is unable to perform his duties, or to fill a post that falls outside the teaching staff establishment approved by the Director of Education.

Some members consider that Direct Subsidy Scheme (DSS) schools should not be exempted from the retirement policy given that they are also publicly funded. The Administration has explained that greater flexibility and autonomy is provided to DSS schools in order to encourage pluralistic development in education. As a result, DSS schools enjoy the autonomy to determine the terms of appointment, salary levels, policies on promotion and retirement, and so on. The Administration does not see the need to extend the application of the
retirement policy to DSS schools. Nevertheless, some members maintain the view that it is unfair to exempt DSS schools from the retirement policy.

With these remarks, Madam President, I submit the above report.

Madam President, I will now give the views of the Democratic Alliance for the Betterment of Hong Kong (DAB) on the Bill.

The Codes of Aid and the Education Ordinance have contradicting provisions on whether principals and teachers should retire at the age of 60. It was due to these loopholes in the law that the relevant litigation arose. The purpose of the Government’s amendment of the Education Ordinance is to set out the established retirement policy more clearly in the Ordinance to make the Ordinance and the Codes consistent.

After discussion with the Bills Committee, the Government finally followed our recommendation to amend the Bill. The proposed amendments allow schools to employ a teacher aged 60 or above as a replacement teacher. Schools may also employ teachers over the age of 60 with their own funds, as long as the relevant posts fall outside the teaching staff establishment approved. The DAB will support the relevant amendments.

The Government has undertaken to issue a circular after the passage of the Bill specifying the specific arrangements for the applications for extension of service by principals and teachers who are over 60 years old. The Administration will request the SMCs of the relevant schools to conduct a fair and open selection exercise for the appointment of principals or teachers. First, the SMC should place a recruitment advertisement and form a selection panel to assess the relevant applications. If no suitable replacement can be found after the SMC has completed the selection exercise, it may make an application to the ED for the extension of service of a serving principal or teacher. The ED will also set up a panel tasked to assess all applications for extension, while the Director of Education will have the final say on the extension. In our view, the whole selection and extension procedure is a duplication of effort. Actually, the most desirable method is to leave the decision to the school, since the school knows best which staff should or should not be retained. Unfortunately, the Government still refuses to accept this method at this stage.
Although the Government has undertaken that the applications for extension of service of principals and teachers will be decided by the SMCs after school-based management is implemented in all schools, I hope that the Administration will set a timetable on leaving final decision on extension to the SMCs as early as possible, in order to implement the school-based management.

The DAB welcomes the Government's introduction of an amendment at Members' request to postpone the implementation of the relevant law by one year, so as to give schools ample time to prepare. This is commendable.

This amendment to the Education Ordinance is made necessary by the lack of clarity in law. As far as I know, many school principals are very much concerned about this issue and have even taken time out from a busy schedule to come to listen to the process of the deliberation of the Bill in the Legislative Council. Apart from making written submissions, they also told me in private that this issue might cause a rift between them and the Government. Over the next few months, the Education Commission will propose a number of education reforms. The success of these reforms will depend on the co-operation and mutual trust between various partners of the education sector. I urge the Government and school principals not to let this issue affect their co-operation. Instead, they should together lay the foundation for mutual trust for the cause of education. With these remarks, Madam President, I support the Amendment Bill.

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

MR SZETO WAH (in Cantonese): Madam President, I had intended to move amendments to certain provisions of the Bill at the Committee stage. However, the amendments I intended to propose had been ruled out by the President in accordance with the Rules of Procedure and therefore cannot be put on the Agenda. While I respect this ruling, I still hope to explain the amendments that I intended to propose to Members, teachers and members of the public during the resumption of the Second Reading debate so that they can judge whether my proposals are reasonable, although they have been ruled out in accordance with the Rules of Procedure.
The main reason why the Government introduced this Bill is because it has lost the case in court. That is why it wants to amend the law to set the retirement age of teachers of aided schools at 60. However, this regulation does not apply to Direct Subsidy Scheme (DSS) schools. My amendment proposes that aided schools and DSS schools should be treated equally. If aided schools are subject to this regulation, DSS schools should also be subject to the same regulation. Unless recommended by the SMC and permitted by the ED, teachers of aided schools must retire at the age of 60, while teachers of DSS schools can work until the age of 70, with no need for recommendation by the SMC or the permission of the ED.

The Government has rejected my suggestion for the reason that greater flexibility and autonomy should be given to DSS schools. In my view, flexibility and autonomy can be applied to areas such as management and the drawing up of the curriculum, whereas the fitness and physical strength of the individual are measured by objective standards, and have nothing to do with flexibility and autonomy. Do teachers teaching in DSS schools live longer and are they necessarily healthier and fitter than those teaching in aided schools? If teachers who can no longer teach at aided schools after they have reached the age of 60 join the DSS schools, can they engage in teaching 10 more years all of a sudden? Is the workload in DSS schools lighter than that in aided schools, so that teachers can work 10 more years?

Originally, the Government also wanted to apply the retirement age of 60 to teachers employed by aided schools without using public funds and outside the establishment. However, due to our objection and our view that one should not interfere since these teachers are not employed with public funds but are paid by the schools from the funds raised by them, the Government finally decided to exempt these teachers.

Our rationale is that teachers employed by aided schools with public funds should be subject to the age restriction, while those whose employment does not involve public funds should not. Since the Government has accepted this rationale, while does it reject it when it comes to DSS schools? Since DSS schools pay their teachers mainly with public funds, why are they not subject to this regulation? This is self-contradictory and adopting double standard.
Actually, even if the retirement age of teachers of DSS schools is set at 60, they can postpone their retirement with the recommendation of the SMC and the permission of the ED, just like teachers of aided schools. And I suspect applications by DSS schools stand a better chance and probability of obtaining the recommendation of the SMC and the permission of the ED than aided schools.

One cannot but wonder what is the reason behind the Government’s application of different standards to the retirement age of teachers of DSS schools. Is the Government trying to turn DSS schools into a kind of home for the elderly and a refuge for retired teachers of aided schools with special connections?

Madam President, I so submit.

MRS SELINA CHOW (in Cantonese): Madam President, I will speak briefly on behalf of the Liberal Party in support of the Bill. I would also like to offer another view regarding the controversy of whether DSS schools should be regulated.

We agree with the Government that flexibility and autonomy should be given to DSS schools. This is a matter of principle. One cannot say that the schools have flexibility and autonomy in certain matters, but should be regulated in other matters. I also disagree that these schools will necessarily become homes for the elderly if they have flexibility or autonomy in this. In the Liberal Party's view, since we have the category of DSS schools and the Government gives different degrees of freedom to different schools, we should maintain the freedom of these schools. Of course, we very much hope that in implementing this policy, the Government will recommend it to DSS schools and encourage them to adopt it. Since aided schools are regulated by law and have to follow this policy, the policy certainly deserves recommendation. However, we still think that DSS schools should enjoy freedom in implementation and the power to make decisions.

Therefore, we give our full support to the Bill.
MR CHEUNG MAN-KWONG (in Cantonese): Madam President, the Democratic Party supports the Government's introduction of the Bill to give clear legal backing to the retirement policy for principals and teachers. The question is, while setting the retirement age of teachers at 60, the Government should not apply it indiscriminately. Rather, it should consider the professional capability of teachers in the relevant posts. Therefore, there is a need to set professional criteria and establish a reasonable mechanism to ensure that there will be fair and reasonable arrangements for the extension of service of teachers after retirement until the age of 65 as stipulated under the present legislation, as long as it is in students' interest. During the deliberations on this Bill, I proposed amendments out of professional and equity consideration to rectify certain deficiencies in the Bill.

First, the selection criteria for filling the posts of retired teachers must be specific and embody the professional requirements. At first, the Government only proposed to issue a circular to the schools stating that the SMC should appoint an applicant who meets the "minimum requirements" of the post, in which case the serving principal or teacher should retire. I have raised objections to this repeatedly. Take principals as an example, the "minimum entry requirements" of a principal are a university degree and eight years of working experience. However, a principal should possess more than these two qualifications. In appointing a principal, consideration should be given to the potential, ability, experience and professionalism of applicants. The so-called "minimum requirements" are extremely inadequate and show a lack of respect for the profession of principals and teachers. I insisted that the Education and Manpower Bureau should set out clearly the criteria for the selection of principals and teachers so that there are rules for SMCs to follow. In the end, the Administration agreed to amend the selection criteria, substituting "minimum requirements" with "possessing as many of the attributes", and including the beliefs, outlook, experience and professionalism in the criteria for selection.

Madam President, it is equally important that the selection procedures for the posts of retired teachers should follow the principle of self-determination of the profession. The Administration initially proposed that the Director of Education should decide the matter directly. Only if teachers are dissatisfied with the decision will the matter be referred to the Appeals Board set up under the Education Ordinance. I am not questioning the ruling of the Appeals Board. Indeed, under the present mechanism, any person who feels aggrieved in the matter of the extension of service may appeal to the Appeals Board. However,
to further strengthen the professional status of the education profession, I urge that the Administration should set up a panel comprising teachers and academics by drawing reference from the arrangements for the extension of service of civil servants. The panel should assess the applications submitted by SMCs and give advice to the Director of Education from a professional angle, instead of having SMCs submit the applications to the Director directly for his decision. The Administration has agreed to this suggestion and has set out the matters for consideration by the panel, including whether the selection procedures of the schools are proper, whether the main selection criteria have been properly adopted and whether the selection process is open, fair and transparent. I welcome the changes made by the Administration.

I have also questioned whether the Administration needs to send a representative of the ED to participate in the assessment of applicants by SMCs. In this connection, the Administration has undertaken that an official will only be sent to observe the selection process under three circumstances: (1) when invited by the SMC; (2) the ED has received reports that the selection process is not conducted in an open, fair or transparent manner; or (3) the school concerned has been the subject of previous complaints of not selecting staff in an open or transparent manner. Besides, the ED observer will under no circumstances become a member of the selection panel and participate in decision-making. I agree with the new conditions proposed by the Administration. In the event of any of the above three cases happening to a school, the ED has a responsibility to investigate the matter and help the school solve the problems, instead of turning a blind eye to the problems.

Madam President, regarding the exemption period, the Administration considers that it has provided schools with a timetable so that they have enough time to make staff succession arrangements. However, the Administration seems to have failed to give adequate consideration to the fact that the Appeals Board as an independent mechanism is not bound by the timetable set by the ED in considering the appeals. In the event of more complicated cases which require a longer period of consideration, the schools might not be able to make proper staff succession arrangements in time. The Bill will probably be passed today and there are less than six months left before the beginning of the new school year. Therefore, I urge the Government to ensure that schools will have a reasonable amount of time to make arrangements for various applications and appeals, such as the recruitment of new staff, after the law comes into operation, in order not to jeopardize students' interests ultimately.
In this connection, I support two amendments to be made by the Administration: First, it proposes a one-off transitional arrangement, whereby serving principals or teachers who are over 60 years old when the 2000-01 school year commences may continue to be employed for that school year without having to apply to the ED. Second, the ED will issue a circular to the schools setting out a timetable for their reference in making arrangements for recruitment or applications for extension of service. After the above one-year transitional period is over, if the appeal of a case straddles two school years, the Director of Education may consider factors such as the interests of students, the operational requirements of the school and the reasonable time required to find a suitable replacement when exercising the discretion to allow the continued employment of the relevant teachers after the appeal process until there is a natural break in the school calendar, such as the end of a major school holiday or school term.

Madam President, the Government has generally made amendments in accordance with the views expressed by us. However, it also shows that the Administration did not consider carefully the possible pitfalls in enforcement before the deliberation of the Bill. In particular, I support the Honourable SZETO Wah's view that the exemption of Direct Subsidy Scheme (DSS) schools from regulation by this Ordinance fully exposes the contradiction and confusion in the Administration's policy. DSS schools are partly publicly funded and should therefore be "treated equally" and partly subject to the same restrictions as those placed on aided schools. The law should be applicable to teachers employed with public funds by DSS schools, while teachers employed by schools with their own funds should not be subject to this restriction. In this respect, separate treatment can be given to those employed with public funds and those employed with the school’s income. Otherwise, there will be grey areas in the law. Teachers whose employment involves public funds will have two different retirement arrangements. This will lead to confusion and division in personnel policy. The Administration cannot turn a blind eye to this problem.

With these remarks, Madam President, I support the Second Reading of the Bill.
MR CHAN KAM-LAM (in Cantonese): Madam President, I guess that because the Government places great importance on the retirement age of employees, it is also very much concerned about the retirement age of teachers. I would like to respond to Mr SZETO Wah's view. He wishes to extend the application of the Bill to DSS schools. The Democratic Alliance for the Betterment of Hong Kong disagrees. In our view, DSS schools and subsidized and government schools belong to two different categories of schools. The mode of subsidy, terms of employment and benefits of the two different categories of schools should not be confused.

DSS schools are a kind of private schools which, like other private schools, can draw up their curriculum, set schools fees and entry requirements freely. DSS schools are subsidized according to the head count, that is, the number of students enrolled. The average unit cost of a school place, the age of the school and school fees are incorporated into the subsidy formula. This is totally different from the case of schools funded wholly by the Government. The success of DSS schools and their popularity with parents depend entirely on the services and education provided by the schools and whether they can add value to students. DSS schools have to face competition in the education system. They have to be "self-subsistent" in order to survive. Their situation is completely different from that of other aided schools.

For subsidized schools, the grant amount they receive has little to do with the size of student in-take and the value added to students. The modes of subsidy of DSS schools and subsidized schools are different, while their teaching staff establishment, terms of employment and requirements are also different. If the requirement on the retirement age of 60 is applied to DSS schools, should the terms of teaching staff of subsidized schools be applied to DSS schools as well?

Under the present legislation, teachers of DSS schools are not eligible to participate in the provident fund schemes of schools or the Subsidized Schools Provident Fund, while teachers of subsidized schools are eligible. The only exception is that after the conversion of a subsidized school into a DSS school, the teachers can retain their original benefits which DSS schools do not provide.
Besides, the teaching staff of DSS schools is not eligible for the mortgage interest subsidy scheme and is excluded from many other benefits. Only the teaching staff of subsidized schools, special schools and caput schools as well as employees of subvented welfare agencies can apply for this scheme, while the staff of DSS schools does not enjoy this benefit.

Mr SZETO Wah is of the view that the requirement on the retirement age of 60 should be applied to DSS schools since DSS schools and subsidized schools are both subsidized by public funds. If DSS schools are to be treated equally as subsidized schools, should their curricula and fees also follow those of subsidized schools? Should the terms of employment of the teaching staff also be the same? Will the teaching staff of DSS schools be eligible to participate in the Subsidized Schools Provident Fund or apply for mortgage interest subsidy? If so, why should there be a differentiation between subsidized schools and DSS schools?

In my view, Mr SZETO Wah should try to understand the reason why we develop a private school system. Developing a private school system is one of the ways to make our school system more pluralistic. Since DSS schools come under the private school system, why should we put all sorts of constraints on these schools? Unless we "envy" DSS schools for being exempted from the retirement age requirement, why should we demand the placing of restrictions on these schools, without demanding that the terms of employment of teachers of these schools be improved? I suggest that some Members should call on subsidized schools to convert into DSS schools instead. After converting into DSS schools, they will no longer be subject to the retirement age restriction and will be able to set the curricula, fees and entry requirements themselves. More importantly, motivated by competition, the schools will try to improve their standards, which will contribute to the development of quality education. Recently, some principals have met with me and Mr YEUNG Yiu-chung. After learning that Mr SZETO Wah intended to propose an amendment to lay down the retirement age of principals and teachers of DSS schools, some of them said to me with feeling that "SZETO Wah is so misguided. On the one hand, he believes that people who are 60 years old are still fit to teach. On the other hand, he criticizes DSS schools by saying that they will become homes for the elderly and is prejudiced against serving teachers above the age of 60. Is this not self-contradictory?" Thus, it is in my view inappropriate to impose the retirement age of 60 on DSS schools at this stage. One reason is that the systems of DSS schools and subsidized schools are totally different. Thus, they cannot be treated as the same in a simplistic manner. At this stage, we will not support this, since we believe that competition in the education system can be
maintained through the co-existence of DSS schools and subsidized schools. Mr SZETO Wah explained the reasons for his amendment just now. These are my responses to them. Thank you, Madam President.

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

MR JASPER TSANG (in Cantonese): Madam President, first, I wish to declare interest. I am the supervisor of a DSS school.

I would like to explain two points on the question of DSS schools as raised by Mr CHEUNG Man-kwong just now. First, I wish to explain that one cannot distinguish between staff employed with public funds and staff employed with funds other than public funds in DSS schools, since DSS schools derive their funds not only from public funds. A considerable amount comes from school fees as well. Mr CHEUNG Man-kwong knows this very well. No matter whether the funds come from school fees or government grant, we cannot say that a certain teacher is employed with public funds, while another is employed with the income from school fees. The salary of each teacher is paid partly with public funds and partly with school fees. There can be no separation to speak of.

Second, as the Honourable CHAN Kam-lam mentioned just now, under the present system, the salary, benefits, appointment and promotion systems of staff of DSS schools are totally different from those of aided schools. The Education Department has set minimum standards for the appointment of teachers of DSS schools. That is to say, if a teacher does not have the qualifications for teaching in an aided school, he cannot be employed by a DSS school. The overall qualifications of teachers of DSS schools may not be lower than those of teachers of aided schools. However, DSS schools can raise the entry requirements, for instance, all teachers of a school may be graduate teachers. There is no regulation on the entry salary of a teacher. It may be much lower or much higher that that of aided schools. There is also no regulation on promotion as in aided schools. For instance, the teachers of a DSS school may have very high qualifications but can still remain ordinary teachers and stand no chance of promotion. However, DSS schools may also have more or a higher percentage of posts for promotion than aided schools.
Actually, there is a difference between DSS schools and aided schools. It is in my view difficult to treat them equally. One can hardly find justification for allowing flexibility in the curricula and school fees, while not allowing any flexibility in the retirement age of teachers. This is because the terms of appointment and promotion of the teachers of the two types of schools are basically different. Thank you, Madam President.

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

(No Member responded)

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, first of all, I should like to thank Mr YEUNG Yiu-chung and other Honourable Members of the Bills Committee. They have completed scrutinizing the Bill within a very short period of time and provided us with many invaluable suggestions.

The report made by Mr YEUNG Yiu-chung just now has already explained in detail the important points that the Government had discussed with Members in relation to the Education (Amendment) Bill 1999. I should like to focus my speech mainly on two suggestions made by Members that are accepted by the Government.

Firstly, the Government agrees with Members that the employment of a person as a teacher of an aided school should not be subject to the Bill if the employment is of a temporary nature or if the teaching post concerned is not within the teaching staff establishment approved by the Director of Education.

Secondly, although we are of the view that we should have, strictly speaking, enough time to process the applications for extension of service for the school year 2000-01 providing the Bill is passed by this Council today, we do appreciate the concerns expressed by Members and certain educational bodies, in particular the concern that applicants may appeal against the decision of the Director of Education. For this reason, we have accepted Members' suggestion and agreed to offer serving principals and teachers a one-off transitional period of one year. In other words, the effective date of the provision prohibiting employment of persons who are over 60 years old as teachers and principals of aided schools will be deferred to 1 September 2001. The ED will issue a notice to schools explaining in detail the relevant arrangements after the enactment of the Bill.
At the Committee stage later on, I will move amendments to such effect as well as other textual amendments that are technical in nature. I hope Honourable Members will support the Bill and the amendments proposed to it.

I should also like to respond to the speeches made by several Members just now.

First of all, in response to the comments made by Mr Szeto Wah just now, I should like to explain the stance of the Government. Compared to aid schools, DSS schools enjoy greater flexibility in terms of resources management and curriculum design. As regards staff employment and personnel matters, DSS schools also enjoy autonomy in determining the terms of appointment, salary levels, policies on promotion and retirement and so on. Actually, as mentioned by the Honourable Jasper Tsang just now, there are enough differences between the personnel policy of DSS schools and that of aided schools.

Given the difference in concept and mode of management between DSS schools and aided schools, the Government is of the opinion that it should not rigidly require DSS schools to adopt the same measures as aided schools in a specific aspect of operation. Nevertheless, in response to the suggestion made by Mrs Selina Chow, if the Bill should be passed today, we would also issue a notice to DSS schools informing them of the retirement policy of aided schools, so that they can take the policy into consideration when formulating their respective retirement policies. However, I must stress that the information is provided for their reference only.

Furthermore, just now the Honourable Cheung Man-kwong has also referred to the question as to whether the Director of Education should send representatives to observe the selection process of applications for extension of service made by serving principals and teachers. In this connection, the Government agrees that normally officers from the ED will only be sent to observe the selection process under the following circumstances: (1) the ED has been invited by the SMC concerned to observe the selection process; (2) the ED has received reports that the selection process is not conducted in an open, fair and/or transparent manner; or (3) the school concerned has been the subject of previous complaints of not selecting staff in an open, fair and/or transparent manner.
Once again, let me express my gratitude to the Bills Committee. I hope Honourable Members will vote in support of the passage of the Bill as well as the relevant amendments.

Thank you, Madam President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Education (Amendment) Bill 1999 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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


Council went into Committee.

**Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in Committee.

**EDUCATION (AMENDMENT) BILL 1999**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Education (Amendment) Bill 1999.
CLERK (in Cantonese): Clauses 1, 3, 5 and 8 to 13.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 4 and 6.

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I move the amendments to clauses 2, 4 and 6, as set out in the paper circularized to Members.

These proposed amendments are purely technical in nature.

Proposed amendments

Clause 2 (see Annex IV)

Clause 4 (see Annex IV)

Clause 6 (see Annex IV)

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

(No Member indicated a wish to speak)
CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Education and Manpower be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 2, 4 and 6 as amended.

CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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


SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam Chairman, I move the amendments to clause 7, as set out in the paper circularized to Members.
With regard to the amendments proposed to clause 7, a new provision will be included under the proposed section 58A to enable aided schools to be exempted from the Bill when employing a person as a temporary teacher or as a teacher not within the teaching staff establishment of the school approved by the Director of Education. In the proposed section 58C, the meaning of "school year" will be amended to provide for the serving teachers and principals a one-year transitional period upon expiry of which they shall be subject to the Bill.

**Proposed amendment**

**Clause 7 (see Annex IV)**

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Education and Manpower be passed. Will those in favour please raise their hands?

.Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clause 7 as amended.
CHAIRMAN (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill


EDUCATION (AMENDMENT) BILL 1999

SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Madam President, the

Education (Amendment) Bill 1999

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Education (Amendment) Bill 1999 be read the Third time and do pass.
PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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


MOTION

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Public Finance Ordinance.

PROPOSED RESOLUTION UNDER THE PUBLIC FINANCE ORDINANCE

SECRETARY FOR THE TREASURY: President, I move the motion standing in my name on the Agenda.

The purpose of this motion is to seek funds on account to enable the Government to carry on existing services between the start of the financial year on 1 April 2000 and the enactment of the Appropriation Ordinance. This follows the procedure long established in this Council.

We have determined the funds on account sought under each subhead in accordance with paragraph 4 of the resolution, by reference to percentages of the provision shown in the draft Estimates. If the draft Estimates are changed, by the Finance Committee or officers under delegated powers, the provision to
which the percentages are applied will also change accordingly. Thus, the provision on account under each head is not constant but may vary, with every increase being matched by an equal decrease. The initial provision on account under each head is shown in the Footnote to this speech. The aggregate total under all heads is fixed, however, at $51,648,005,000 and cannot be exceeded without the approval of this Council.

The resolution also enables the Financial Secretary to vary the funds on account in respect of any subhead, provided that these variations do not cause an excess over the amount of provision entered for that subhead in the draft Estimates or an excess over the amount of funds on account for the relevant head.

The Financial Secretary will issue a vote on account warrant to the Director of Accounting Services authorizing him to make payments up to the amount specified in this motion and in accordance with its conditions. The vote on account will be subsumed upon the enactment of the Appropriation Ordinance, and the general warrant issued after the enactment of the Appropriation Ordinance will replace the vote on account warrant.

President, I beg to move.

Footnote

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<th>Amount shown in the draft Estimates $'000</th>
<th>Initial amount of provision on account $'000</th>
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<td>186 Transport Department ...............................................................................................</td>
<td>876,500</td>
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<tr>
<td>188 Treasury ....................................................................................................................</td>
<td>324,227</td>
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<td>190 University Grants Committee .....................................................................................</td>
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<td>194 Water Supplies Department .......................................................................................</td>
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<td>198,475,346</td>
<td>46,029,005</td>
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<td>184 Transfers to Funds .................................................................................................</td>
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<td>204,094,346</td>
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Total

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<tr>
<th>Head of Expenditure</th>
<th>Amount shown in the draft Estimates $'000</th>
<th>Initial amount of provision on account $'000</th>
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The Secretary for the Treasury moved the following motion:

"That —

1. Authority is hereby given for a sum not exceeding $51,648,005,000 to be charged on the general revenue in advance of an Appropriation Ordinance for expenditure on the services of the Government in respect of the financial year commencing on 1 April 2000.

2. Subject to this Resolution, the sum so charged may be expended against the heads of expenditure, and expenditure for each such head shall be arranged in accordance with the subheads, shown in the draft Estimates of Expenditure 2000-01 laid before the Legislative Council on 8 March 2000 or, where such estimates are changed under the provisions of the Public Finance Ordinance (Cap. 2) as applied by section 7(2) of that Ordinance, in accordance with such estimates as so changed.

3. Expenditure in respect of any head shall not exceed the aggregate of the amounts specified in respect of each subhead in that head, by reference to percentages, in section 4(a) and (b).

4. Expenditure in respect of each subhead in a head shall not exceed —

(a) in the case of a Recurrent Account subhead, an amount equivalent to —

(i) except where the subhead is listed in the Schedule hereto, 20% of the provision shown in respect of it in the draft Estimates;

(ii) where the subhead is listed in the Schedule hereto, that percentage of the provision shown in respect of it in the draft Estimates which is specified in relation to that subhead in the Schedule; and

(b) in the case of a Capital Account subhead, an amount equivalent to 100% of the provision shown in respect of it in the draft Estimates,
or such other amount, not exceeding the provision shown in respect of the subhead in the draft Estimates, as may in any case be approved by the Financial Secretary.

<table>
<thead>
<tr>
<th>Head of Expenditure</th>
<th>Subhead</th>
<th>Percentage of provision shown in draft Estimates</th>
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</thead>
<tbody>
<tr>
<td>22 Agriculture, Fisheries and Conservation Department</td>
<td>Society for the Prevention of Cruelty to Animals (Hong Kong)</td>
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<td></td>
<td>World Wide Fund for Nature (Hong Kong)</td>
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<tr>
<td>28 Civil Aviation Department</td>
<td>Airport insurance</td>
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<td>31 Customs and Excise Department</td>
<td>Grant to the Customs and Excise Service Welfare Fund</td>
<td>100</td>
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<tr>
<td>35 Government Secretariat: Beijing Office</td>
<td>Publicity</td>
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<td>40 Education Department</td>
<td>Direct Subsidy Scheme</td>
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<td></td>
<td>Kindergarten Subsidy Scheme</td>
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<td></td>
<td>Assistance to private secondary schools and bought places</td>
<td>37</td>
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<tr>
<td></td>
<td>English Schools Foundation junior schools</td>
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<tr>
<td></td>
<td>English Schools Foundation secondary schools</td>
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<tr>
<td></td>
<td>Miscellaneous services</td>
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<tr>
<td>Head of Expenditure</td>
<td>Subhead</td>
<td>Percentage of provision shown in draft Estimates</td>
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<tr>
<td>46 General Expenses of the Civil Service</td>
<td>013 Personal allowances</td>
<td>40</td>
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<tr>
<td>60 Highways Department</td>
<td>273 Highways maintenance</td>
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<tr>
<td>76 Inland Revenue Department</td>
<td>002 Allowances</td>
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<td></td>
<td>007 Job-related allowances</td>
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<td></td>
<td>149 General departmental expenses</td>
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<td>90 Labour Department</td>
<td>280 Contribution to the Occupational Safety and Health Council</td>
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<td>295 Contribution to the Occupational Deafness Compensation Board</td>
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<td>92 Department of Justice</td>
<td>234 Court costs</td>
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<td>243 Hire of legal services and related professional fees</td>
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<td>287 Legal services for projects relating to the Port and Airport Development Strategy</td>
<td>30</td>
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<td>106 Miscellaneous Services</td>
<td>163 Write-offs</td>
<td>50</td>
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<td></td>
<td>191 Payment to Cross-Harbour Tunnel Company Limited</td>
<td>100</td>
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<td>192 Refunds of revenue</td>
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<tr>
<td>Head of Expenditure</td>
<td>Subhead</td>
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<tr>
<td>120  Pensions</td>
<td>021  Ex gratia pensions, awards, allowances and increases</td>
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<td>026  Employees' compensation</td>
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<td>130  Printing Department</td>
<td>002  Allowances</td>
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<td>160  Radio Television Hong Kong</td>
<td>102  Technical Services Agreement</td>
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<td>170  Social Welfare Department</td>
<td>176  Criminal and law enforcement injuries compensation</td>
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<td>177  Emergency relief</td>
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<td>179  Comprehensive social security assistance scheme</td>
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<td>180  Social security allowance scheme</td>
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<td>187  Agents’ commission and expenses</td>
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<td>412  Refunds of rates</td>
<td>30</td>
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<tr>
<td>176  Subventions: Miscellaneous</td>
<td>414  Environmental Advisory Service</td>
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<td>437  Hong Kong — Japan Business Co-operation Committee</td>
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<td>446  Duty Lawyer Service</td>
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<td>Head of Expenditure</td>
<td>Subhead</td>
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<td>475 Outward Bound Trust of Hong Kong</td>
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<td>503 Subventions to non-government organization camps</td>
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<td>521 Skills centres</td>
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<td>527 Open University of Hong Kong</td>
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<td>528 Guardianship Board</td>
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<td>177 Subventions: Non-Departmental Public Bodies</td>
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<td>520 Vocational Training Council</td>
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<td>526 Legal Aid Services Council</td>
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<td>188 Treasury</td>
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<td></td>
<td>187 Agents’ commission and expenses</td>
<td>77</td>
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<td>190 University Grants Committee (UGC)</td>
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<td>149 General departmental expenses</td>
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<td>169 Visitation</td>
<td>35</td>
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<td></td>
<td>492 Grants to UGC-funded institutions</td>
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<td>496 Refund of rates and Government rents — UGC-funded institutions</td>
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<td>529 Home Financing Scheme</td>
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<td>530 Housing-related expenses other than Home Financing Scheme</td>
<td>25”</td>
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PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for the Treasury, as set out on the Agenda, be passed.

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

MR JAMES TO (in Cantonese): Madam President, I shall be brief. I have seriously considered whether there is a need to amend Subhead 103 concerning the special services payment and the items relating to the Complaints Against Police Office of the Police Force before the enactment of the Appropriation Bill 2000. I agree that this motion today does not affect the future amendments to the Appropriation Bill 2000 which are now under our consideration. Yet, this cannot be taken as agreement on our part for the various provisions of the Appropriation Bill 2000.

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

(No Member responded)

PRESIDENT (in Cantonese): Secretary for the Treasury, do you wish to reply?

(The Secretary for the Treasury indicated that she did not wish to reply)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for the Treasury, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)
PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

MEMBERS’ MOTIONS

PRESIDENT (in Cantonese): Members’ motions. Proposed resolution under the Interpretation and General Clauses Ordinance.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR JAMES TO (in Cantonese): Madam President, I move the motion which has been printed on the Agenda. The main purpose of this motion is simple. It seeks to extend the negative vetting procedure for two weeks to the end of March to allow more time for scrutiny.

We are currently engaged in active discussions with our Legal Adviser and government officials from the relevant Policy Bureau. This piece of legislation mainly provides for the legislative amendments in relation to the use of mobile telephones by drivers in the course of driving.

Mr James TO moved the following motion:

"That in relation to the Road Traffic (Traffic Control) (Amendment) Regulation 2000, published as Legal Notice No. 39 of 2000, and laid on the table of the Legislative Council on 16 February 2000, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) for amending subsidiary legislation be extended under section 34(4) of that Ordinance to the meeting of 29 March 2000."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr James TO, as set out on the Agenda, be passed.
PRESIDENT (in Cantonese): Does any Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr James TO, as set out on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Two motions with no legislative effect. I have accepted the recommendations of the House Committee as to the time limits on speeches for the motion debates. I believe that Members are clear about the time limits for their speeches so I do not repeat them in details here. I just wish to remind Members that I have the duty to direct anyone speaking in excess of the permitted time to discontinue his speech.

First motion: Manpower in the information technology industry.
MANPOWER IN THE INFORMATION TECHNOLOGY INDUSTRY

MR SIN CHUNG-KAI (in Cantonese): Madam President, I move the motion which has been printed on the Agenda.

Madam President, Honourable colleagues, the original motion moved by me today concerns manpower in the information technology (IT) industry.

Manpower shortage has a profound impact on IT development. The topic I am going to talk about today is of great importance to the future IT and economic development in Hong Kong.

I hope that the Government can abandon its long-standing conservative style in dealing with the training of IT personnel. Hong Kong needs a powerful training mechanism for IT personnel.

The whole world is now faced a shortage of IT personnel. It is estimated that, by the year 2002, the United States will be short of 2 million IT talents. The one who is able to be the first to solve the problem of human resources training will be able to lead IT development; those who are unable to do so will lag behind. Hong Kong has virtually no problems in raising capital for IT development. However, no development is possible with the lack of IT personnel. Should Hong Kong fail to solve the problem of shortage of IT personnel, it will miss the valuable opportunities for development, that is, the IT boat. Hong Kong will not only fail to develop into an IT centre in the Asia-Pacific Region, but also lag behind the whole world.

How many IT talents does Hong Kong actually lack? According to a survey conducted by the Vocational Training Council (VTC) in 1998, Hong Kong was short of 3,800 people, roughly 8% of the total number of people required, to work in the IT industry in that year. A study conducted by a consultancy commissioned by the Education and Manpower Bureau in March 1999 also predicted that Hong Kong would need 1,800 to 6,000 more people in 2000. It is now only March and many schools are still in classes. According to a number of professors teaching in tertiary institutions, competition for students in IT-related fields was extremely keen. Some of them even said an average of two telephone calls were received every day from those who were "looking for IT personnel". This shows that manpower shortage is extremely serious.
According to the report compiled by the consultancy, if the current supply rate remains unchanged, Hong Kong might need up to 4,000 to 30,000 extra people to work in the IT industry by 2005, and more than 100,000 by 2010, that is, 10 years from now. I hope Members can bear in mind that these posts, covering such fields as system analysis, software and hardware support and so on, require formal IT training. Those who know only Chinese typing or Chinese word processing will be unable to fill these posts. This is very frightening indeed. Think of the fact that Hong Kong has at present a working force of more than 3 million people. It is really surprising that there is already a shortfall of 100,000 employees in one single industry. I can tell Members that the reality is even worse than what was predicted in the consultancy report. This is because the information for compiling this report was collected in approximately the first half of 1999 when IT development in Hong Kong was not as rapid as it was in the second half of the year or in recent few months. There are at present 30,000 websites registered in Hong Kong, with half of them registered after March 1999. In other words, the so-called "com" or "com company" websites, or at least half of them, were set up only last year. In January 1999, there were only 700,000 registered Internet users in Hong Kong. The number of users soared to 1.7 million by January this year. According to various pieces of information, IT development saw an exceptionally rapid growth in the second half of last year. The so-called Internet's total "connected time" also scaled new heights in January this year. Information provided in the consultancy report has in fact failed to grasp the abovementioned changes for the report has forecast our future needs only on the basis of an investigation report compiled by the VTC two years ago, failing to take into consideration the rapid growth seen in the second half of 1999. For such reasons, I believe the shortage of IT personnel in Hong Kong was even more serious than what was indicated in the consultancy report.

Some people have raised this question: "Will IT development last only briefly and, given the fact that so many people are receiving training at the moment, will they fail to find any job after completing their training?" I want to tell Members that this is not going to happen, for IT development will give impetus to various trades and industries in Hong Kong. Changes taken place in this area are now only at the preliminary stage. Looking to the future, six new companies will be set up in Hong Kong to provide broadband Internet services. One of these companies has, albeit having only 100-odd staff in Hong Kong at the moment, indicated that its ultimate target is to hire 1,000 people in Hong Kong. The demand in this area is indeed huge. In the near future, perhaps by the end of next year, we will be able to conduct a large number of the so-called "m-commerce", or "mobile commerce" rather than "e-commerce" transactions.
Therefore, we will see changes coming one after another. I hope Members can understand that these changes are beyond our imagination. On 5 January this year, the Government proposed relevant legislation, the Electronic Transactions Bill, to provide for and ratify electronic certificates with a view to strengthening statutory control on electronic trading and boosting the confidence of the public in electronic trading by way of policy or legislative control. The Post Office has also become the first certification authority as a result. I want to tell Members that IT development is like a train. Once its locomotive is started, the train will only move faster and faster. I would also like to urge the Government to take measures expeditiously to enhance the training of IT personnel to pull the Hong Kong train into position.

I hope the Government can develop sufficient matching manpower resources, apart from liberalizing the market, drafting and amending relevant legislation to tie in with and promote IT development and electronic trading. Nevertheless, the problem we can perceive at the moment is unemployment among the younger generation. The unemployment rate has reached 28.2% for those who are between the age of 15 and 19. In other words, 20,000 young people of this age group are now unable to secure jobs. For those who are between the age of 20 and 29, nearly 60,000 are jobless. The problem of manpower shortage experienced by the IT industry can be greatly alleviated if only 5% of these 80,000 people can join the industry. Given the full knowledge that there will be a serious shortage of IT personnel in future against a particularly high unemployment rate among the young people, it is therefore essential for the Government to take measures to provide sufficient training for these people.

In Taiwan, an IT institute named "Triple Eyes" has been set up specifically for providing human resources training. The basic training provided is called "standard package" and the standard training will last 500 hours, which is quite similar to the training we have proposed for junior IT technicians. Of course, after detailed calculation, the institute requires a longer training period than ours.

We have made reference to various regions, including Taiwan, mentioned by me just now, and India. In the case of India, human resources training is provided through the setting up of the Indian Institute of Information Technology. The reason why I mentioned India again — this is the second time that I mentioned India this year — is India has been quite successful in developing IT software. Many companies in the Silicon Valley have out sourced programming work from India. Upon completion, the programmes will be returned to the Silicon Valley for packaging before being delivered to other parts of the world. India has therefore adopted a policy of taking an active approach
in training IT personnel. It has also set up seven to eight industries specializing in software development for the provision of training.

A manpower demand survey is conducted by the VTC every two years. In 1996, it was found that there was a 5% shortfall in human resources. In 1998, the shortfall rose to 8%. But up to the present moment, the Government has only compiled one consultancy report in the area of IT personnel training. It has even failed to take any position. Perhaps when the Government takes a position and indicates its willingness to boost manpower training, the market has already changed. To put it in simple terms, all IT research surveys will lag behind the real situation after a lapse of six months just because of the time difference.

The motion I am moving sets out five proposals for discussion, including increasing the number of degree and sub-degree places for training manpower. I think Members will have no objection as far as this point is concerned. What is in dispute is the issue concerning the training vouchers only. I want to explain to Members that, under the current mechanism, we are still relying on the VTC and retraining institutions to train people at the sub-degree level. I believe universities will change in the light of market changes and organize self-financed courses, that is, extramural courses, which will respond to market changes in a more rapid and easier manner. On the contrary, the biggest problem will appear at the sub-degree level, that is, at the diploma and advanced diploma level. I hope the Government can promote IT development through the market mechanism. In other words, the Government needs to provide examination and carry out its work through an academic accreditation mechanism. Upon the setting up of this mechanism and formulation of courses, students will be able to study under a credit system and take examinations according to units and modules. Students will also be allowed to take private courses on the condition that they must pass the relevant examinations. Refund will be offered to them by the Government upon the completion of their courses. Of course, students attending these courses need to pay school fees as well. The purpose of providing funding is to better enable the market to grasp the latest technological changes. At the same time, we can deploy resources outside the existing framework to promote IT training. This is why we have made the proposal on training vouchers. I would like to take this opportunity to urge the Government to actively take effective measures to facilitate Hong Kong's development into an IT hub in the Region. I will respond to the several amendments proposed by the Honourable MA Fung-kwok in the speech to be delivered by me later.

With these remarks, I hope Members can support the motion.
Mr SIN Chung-kai moved the following motion: (Translation)

"That this Council urges the Government to expeditiously adopt effective measures to tackle the problem of short-term and long-term manpower shortages in the information technology (IT) industry in Hong Kong, including:

(1) increasing the number of places in IT courses at sub-degree, degree and postgraduate levels to enhance the training of local IT personnel;

(2) instituting an academic accreditation mechanism for the IT discipline to assess the academic standards of IT personnel without formal training with a view to providing an advancement ladder, and considering the setting up of an IT institute to upgrade the quality of IT personnel in Hong Kong;

(3) encouraging local educational institutions to offer, individually and jointly with other institutions, various short-term courses and continuing education programmes in the IT field, and the contents thereof should closely tie in with IT development;

(4) establishing websites to provide one-stop job-matching services for IT personnel as well as relevant information on training, and so on, and at the same time analysing and assessing manpower supply and demand in the market to provide a basis for reviewing the policy on IT training from time to time; and

(5) motivating the public to pursue further studies in relevant courses by giving an incentive in the form of "technology training vouchers", and encouraging enterprises, by way of offering tax incentives, to provide training aimed at increasing the IT knowledge of their employees."
THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr SIN Chung-kai, as set out on the Agenda, be passed.

Mr MA Fung-kwok will move an amendment to this motion, as printed on the Agenda. In accordance with the Rules of Procedure, the motion and the amendment will now be debated together in a joint debate.

I now call upon Mr MA Fung-kwok to speak and move his amendment.

MR MA FUNG-KWOK (in Cantonese): Mr Deputy, I move that Mr SIN Chung-kai’s motion be amended, as set out on the Agenda.

Mr Deputy, I fully agree with the Honourable SIN Chung-kai’s remarks that there is manpower shortage in the IT industry and that manpower training is a pressing task. I also hope that the Administration will expeditiously carry out various training measures. As to the measures to be adopted, the views of my friends in the New Century Forum and I differ from those of Mr SIN Chung-kai. I wish to take this opportunity to have a good discussion and work out a proposal that tallies with the specific situation in Hong Kong, benefits the community and meets the actual needs of the public.

First of all, I think that the training of local IT manpower should be conducted on the premise of fully utilizing the existing social resources and mechanisms. We should make suitable redeployment of existing resources and make suitable and timely expansion where there are deficiencies.

Mr SIN Chung-kai has demanded to increase the number of places in IT courses at sub-degree level, consider setting up an IT institute and establish websites, but I think these measures are not essential. In respect of IT courses at sub-degree level, the existing academic system in Hong Kong has been operating for years but there are no courses at sub-degree level. In the recent education review of the Education Commission (EC), proposals were made for courses at sub-degree level and a community college. Yet, a consensus has not been reached and a lot of problems have been found with the proposals. Under the existing academic mechanism, certificates, diplomas, higher diplomas,
degrees, master's degrees and doctor's degrees are being awarded, and the mechanism has been in place for years and is well-tested. Given that we are currently conducting a comprehensive review on education in Hong Kong, it is actually inappropriate for any changes to be made casually and rashly before a conclusion is drawn.

Mr SIN Chung-kai's proposal on setting up an IT institute provides much food for thought. First, what IT talents does Hong Kong need in the 21st century? Do we need people who only know computer application technologies? In the 21st century, there is not a shortage of technical personnel who only have knowledge of programmes like "Java", "html", "Power Builder" and so on, there is a more serious shortage of the so-called "compound" IT personnel. In other words, apart from computer technology, they should also have comprehensive knowledge of planning, decision-making and management. Let me give a simple example. If a restaurant needs computerization to assist it in productivity enhancement, then the IT personnel developing suitable software for the restaurant should first acquire basic knowledge of the operation and management of the restaurant before they can develop the perfect software. Can we base on simple logic and set up an IT institute in order to train up such compound IT talents? I believe the answer is negative. The education sector has reached a consensus on the shortcomings of a single discipline institute because it runs counter to the trend of modern education. At present, there are faculties of engineering, faculties of arts and faculties of science in universities and a few universities require students majoring in engineering to take general subjects or subjects other than engineering such as philosophy and literature in order to nurture compound talents that will adapt to the general trend of our society.

There are eight subsidized universities in Hong Kong and enormous social resources are used every year. Almost every university offers IT degree or postgraduate programmes. Technical institutes, vocational training institutes, the professional continued training courses of different universities, and the occupational retraining institutes also offer different courses related to IT. These courses have different features and are widely accepted. On the basis of market needs, different institutes will offer professional courses in keeping with the trend. Therefore, I think that it is not essential to change the existing manpower training system that is diversified, autonomous and flexible. Provided that suitable adjustments are made to the places and contents of existing courses, the demands for IT talent training will be adequately met.
I also do not think it is essential to establish websites. A "dot.com" Internet wave has started in recent years. There are countless websites offering or helping hunting for job opportunities, and some homepages have special columns for IT talents. Therefore, IT talents need not worry that there will not be channels for them to hunt for jobs. The homepage of the Labour Department already has the functions mentioned by Mr SIN Chung-kai. If we consider it inadequate, we might as well ask the Labour Department to enhance the functions of its homepage. The Government is also responsible for closely monitoring manpower demands and promptly co-ordinating the overall training policy with various training institutions to ensure that there is adequate manpower for IT development.

Mr Deputy, I support the proposal on instituting an academic accreditation mechanism for the IT discipline to assess the technical standards of IT personnel who have not received formal training. I stress that I am talking about technical accreditation, not academic accreditation. Academic accreditation lays particular emphasis on theoretical study. In fact, the diploma and degree systems in Hong Kong have been widely accepted and recognized and the academic accreditation system has been established for a long time and is well-tested. When we propose establishing a qualification accreditation mechanism for a certain profession, we should not mix up academic and technical accreditation. There is no reason why we should require the IT sector to ask IT personnel without formal training to prepare theses or discuss theories when assessing their qualifications. We should find out the types of software they have knowledge of, the extent to which they are familiar with them as well as their abilities to solve technical problems. This is purely a technical professional standard test rather than an academic accreditation. Actually, some large international IT companies such as Cisco and the MCSE certificate of Microsoft target at technical knowledge, and it does not include academic accreditation.

There are many ways with which we can solve the problem of shortage of IT talents. But I would like to stress that stepping up universal IT education in primary and secondary schools is a fairly important component. Perhaps some may think that this is not closely related to IT talent training, just like an orange and an apple that cannot be placed on a par. But I believe all Members understand that lofty towers are all built from the ground up. If students can lay a firm foundation when they are young, it will surely be conducive to the future IT development in Hong Kong. As many students may become future IT
personnel or elites, it is essential to ensure that they can possess and use computers. For working people, the Government can make use of the existing institutions and offer more government-subsidized IT courses so that people who cannot afford the school fees will not lose the opportunities for continued study and the objective of lifelong learning can thus be achieved. The Government should also set up more computers and terminals in facilities under the Government and the subsidized bodies such as libraries, youth centres or community halls for use by the general public. This will create favourable conditions and is a practical and feasible way in which IT talents will be trained up. As regards "technology training vouchers" and tax incentives, I do not oppose these in principle and I fully agree that we should adopt various measures to enhance the IT knowledge of Hong Kong people. In respect of implementation, we should take a series of issues into account. For example, what are the criteria on which the Government issues these training vouchers? Can everyone enjoy these training coupons? Can training coupons be transferred? Will they be abused? Are training vouchers the most suitable method? Can they be substituted by other measures? Why are training vouchers restricted to the IT industry but not the manufacturing industry, and will this be unfair to other industries? In fact, the Government is now encouraging enterprises to provide training by way of tax incentives, why has Mr SIN Chung-kai stated in the paper circularized to Members that he hopes that we will provide the IT industry with double tax incentives to encourage them to provide training? Why special attention is paid to the IT industry and double incentives are given? Why should special concessions be made to the IT industry? In a word, I am not saying that we should not consider the "training voucher" proposal, but we must solve the relevant technical problems first and make it a training policy applicable to other industries rather than giving preferential treatment to the IT industry only.

Mr Deputy, the quantity and quality of IT talents will directly affect the development of high-tech and high value-added industries in Hong Kong. Without technical personnel, the development of high technology in Hong Kong will only be "water without source and trees without roots". While we try every means to train IT or other talents, we must maintain a holistic approach and make effective use of our resources in a practical manner. We must use the most effective and economical methods to train IT talents who meet social needs best.

I so submit.
Mr MA Fung-kwok moved the following amendment: (Translation)

"To delete "sub-degree" and substitute with "diploma"; to delete "an academic" and substitute with "a qualification"; to delete "academic" and substitute with "technical"; to add "employment avenues and" after "a view to providing"; to delete ", and considering the setting up of an IT" and substitute with "in order"; to add "analysing and assessing regularly the manpower supply and demand in the market to provide a basis for reviewing the policy on IT training from time to time, as well as" before "encouraging local educational institutions"; to add "and" after "with IT development;"; and to delete "establishing web sites to provide one-stop job-matching services for IT personnel as well as relevant information on training, etc., and at the same time analysing and assessing manpower supply and demand in the market to provide a basis for reviewing the policy on IT training from time to time; and (5) motivating the public to pursue further studies in relevant courses by giving an incentive in the form of "technology training vouchers", and encouraging enterprises, by way of offering tax incentives, to provide training aimed at increasing the IT knowledge of their employees" and substitute with "expediting the pace of promoting IT education in primary and secondary schools, and increasing by various ways and means the percentages of computer usage and ownership among the general public and students in Hong Kong to ensure that no one in the community will be deprived of the opportunities of acquiring and using IT due to economic factors".

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr MA Fung-kwok to Mr SIN Chung-kai’s motion, be passed.

MR HOWARD YOUNG (in Cantonese): Mr Deputy, many people rushed into the market recently in hot pursuit of local technology-based stocks (T Shares). However, at the same time when the majority investors are expecting the value of T Shares to rise, how many of them understand what exactly is information technology (IT); and do we have enough IT talents in Hong Kong? Today's motion aptly brings up these questions for a timely discussion.
In Hong Kong, emphasis has been placed on the training of talents for the financial services, trade and economy sector, and labour-intensive or low-tech industries for some years. IT in Hong Kong, on the other hand, did not receive the due attention in for development, resulting in the recent short supply of IT manpower. In the wake of the rapid development of global electronic commerce (e-commerce) activities and IT in recent years, the need for IT professionals becomes more and more imminent. Unfortunately, far from meeting the need in reality, the training and supply of talents in this discipline are too scarce.

The Liberal Party supports the proposal of the Commission on Innovation and Technology concerning the importation of mainland research and development professionals, because Hong Kong can be benefited from the knowledge of these professionals. Nevertheless, in the long run, the Government should draw up a detailed programme for the training of local talents, including the training of IT professionals, in addition to the importation of mainland professionals. It is because an uninterrupted supply of manpower can be secured only by the successful "production" of local professionals, which can ultimately maintain our long-term competitiveness.

In general, the younger generation of Hong Kong possesses a certain degree of computer knowledge. Surfing on the Internet and logging on "ICQ" have become part of their everyday life. However, very few of them apply the use of computers in a more proper way, for instance, in study or in work. In addition, people with years of working experience and more advanced in age are usually half-baked dabblers or even strangers to computers. It is small wonder that some people should say that age is in inverse proportion to knowledge in IT and computer. These people need suitable training without delay, so that they will not become out of touch with the times on the one hand, and they can enhance their competitiveness and chances of promotion on the other. I believe the ultimate winner in this campaign shall be the whole community of Hong Kong.

Basically, the Liberal Party supports most of the contents of the original motion, since the Government is definitely duty-bound to adopt effective measures as soon as possible to solve the IT manpower shortage problem. Currently, there are IT related courses for the public to study to suit individual interests or job requirements, and they are well run in terms of course variety.
and enrolment. However, we concern very much about whether these courses are adequate to fulfill public needs or compatible to realistic needs. As the IT is developing with giant strides and the need for IT talents is increasingly growing, the Government should draw up a long-term IT manpower development programme as soon as possible, so as to meet the present and future demands.

However, the Liberal Party does not support the part of the original motion regarding the concept of "training vouchers". Mr MA Fung-kwok has already presented his amendment in this aspect, which encouraged the public to study relevant courses. The Liberal Party considers that the Government has already provided sufficient continuing education channels for the public. The unemployed may enroll themselves in courses conducted by the VTC, while the employed may seek sponsorship from their employers for self-enrichment courses. I believe the outcome will be more satisfactory if the Government adopts the proposal of Mr SIN Chung-kai concerning offering tax concession to employers who sponsor their employees to study IT related courses. Therefore, the Liberal Party considers the existing problem is not the insufficiency of government subsidy or inadequacy of continuing education channels for the public. Besides, the Liberal Party considers the introduction of "training vouchers" unnecessary as it may cause a series of problems such as a rush in the public, pressures from the public or unnecessary administrative expenses that may even intensify the burden of taxpayers. Nevertheless, the Liberal Party considers the crux of the matter is whether the Government can provide sufficient IT training courses to meet the public needs. Therefore, the Liberal Party supports the amendment and does not support the original motion.

Mr Deputy, I so submit.

MR TAM YIU-CHUNG (in Cantonese): Mr Deputy, the IT industry emerged abruptly in the past year under the driving force of the Government. The so-called "com" business has become the most profitable business in Hong Kong as such kind of investment is very easy to make a fortune. From this we can see that Hong Kong is a vibrant city most adept at responding to changes in the world economy speedily. However, it also brings certain corresponding problems to light, such as the shortage of IT manpower that we are discussing in this Chamber today, which has become a pressing problem.
I think the training of IT talents should be considered from several aspects. A moment ago, Mr MA Fung-kwok also mentioned that IT lessons should become a part of the formal school curriculum in the education system of Hong Kong. Nowadays, the Government has already allocated some resources to secondary and primary schools to enhance these learning contents, and certainly, the relevant facilities and quality teachers have to be further improved. Nevertheless, we believe the instillation of IT knowledge to primary and secondary students as well as young people is beneficial to their development, because young people have a better command in IT matters, they are fast-learners and they are more creative, therefore we hope the Government can step up its effort in this aspect.

Moreover, universities and colleges ought to be provided with these conditions. I visited a university and talked to its head about the matter last month. He told me that to add a certain academic discipline was not so simple at all, because prior to the expansion, the approval of the University Grants Committee had to be sought concerning the facilities and the recruitment of teaching staff. In view of that, we are a little bit impatient sometimes, but perhaps just as the saying goes: A slow remedy cannot meet an urgency. Although we know that problems can be solved eventually, yet how should the impending problem be resolved?

In the past two years, the Employees Retraining Board (ERB) has provided over 60,000 computer courses in total, including full-time courses and part-time courses. Over 80% of other part-time courses were computer applications related. Certainly, the retrainees of the ERB may not necessarily be the IT professionals that Mr SIN Chung-kai has in mind. Nevertheless, we hope the retrainees can be able to provide some support services such as technical support, computer application or operation work. We understand that the demand for retraining will be enormous and some retrainees may have to wait for several months before they are admitted. Moreover, concerning facilities and teachers, we are unable to meet the existing need for the time being, therefore people intent on taking ERB courses have to wait for some time.

Recently, the ERB has opened two resources centres for retraining purpose, which were fitted with computer equipment. As a result, retrainees of the ERB may carry on using such facilities for self-learning purposes after they have completed the retraining courses. In a sense, this can be regarded as a way of continuing computer learning.
The ERB has also made great efforts to co-operate with employers and professional organizations and to heed their views. To open more retraining courses is not a difficult task, but to make the retrainees fit the demands of society, to find jobs and to assimilate with the market are of enormous import. Therefore, we should co-operate with employers and professional organizations in the planning and design of the relevant courses.

The ERB has also conducted two pilot courses for the training of full-time IT technical assistants. However, we found that retrainees of the inaugural course were able to join the market immediately, where 90% have found jobs; but the employment condition for retrainees of the succeeding course was not so satisfactory as their predecessors, for only about 70% of the retrainees were able to find jobs and absorbed by the market. Therefore, we will try our best to sum up the experience in order to find out the cause for such a problem, and to review if the contents of the courses are unsuitable for the market, or the technique of the retrainees are incompatible with current market requirements. In this aspect, we still have to try hard to reassess our experience.

In the meantime, I think there is one thing worthy for the Administration to consider, which is to allow the ERB to transform itself into a fully IT-ready organization. Nowadays, no business is not using computer technology. For example, all of the presses in the printing industry have been computerized, as the manual typesetting procedure has already been replaced by computers, and ordinary presses are replaced by computerized ones. Printing workers are not necessarily ready to master such kind of computerized machinery immediately, thus they need more training courses urgently. However, small-scale print shops are unable to provide such kind of training. The same thing happens to the catering industry, after computerized ordering system is adopted. As a result, workers in the industry have to face the tide of IT and master new knowledge and technique. In this aspect, we hope the Government will allow us to introduce more training of this kind, so that we can enable them to meet the demands of society. Consequently, to promote IT education requires full co-operation between the Government and the business sector, which will ensure that the content of courses are more practical and useful.
I also hope corporations rich in financial resources in the business sector will set up foundations, scholarships or bursary schemes for the training of IT talents and open up the opportunity to the public, so that people who have the ambition to advance their studies may apply. By doing so, a new path can be opened up for the training of talents on the one hand, and the good image of "using what is taken from the community in the interests of the community" can be achieved on the other hand. Thank you, Mr Deputy.

PROF NG CHING-FAI (in Cantonese): Mr Deputy, owing to the rapid development of the IT industry, manpower shortage in the industry has come to light. As a matter of fact, a similar problem prevails in China and overseas countries, which has become a universal concern for some years. Recently, a consultancy report commissioned by the Manpower and Education Bureau has assessed the supply and demand of IT talents in the next decade. According to the report, the shortage problem of IT talents will be worsening if measures are not taken immediately, as there are insufficient well-trained IT talents to keep up with the ongoing technological progress. As a result, I consider the debate on manpower in the IT industry moved by Mr SIN Chung-kai and Mr MA Fung-kwok today a timely motion. I would like to expound three main points of my views about the subject.

Firstly, I would like to talk about the implication of the solution for the manpower problem in IT the industry.

In the age of knowledge-based economy, talents in science and technology, especially the quantity of IT talents, is of exceptional vital importance to the competitiveness of a country or a region. We have deliberated frequently in this Chamber on how Hong Kong should import top professionals. Nevertheless, we have to emphasize today that, to every country in the world, this is the age to fight for top professionals, and the fight itself is a competition. We can only get a handful of top talents by means of importation, but we cannot solve the fundamental problem by importation alone. Talents, in the final analysis, rely on our own cultivation and training. As a result, manpower at all levels of the IT industry should by and large rely on Hong Kong’s own comprehensive professional training efforts concerning IT applications.
As we all know, since the '70s, studies and surveys assessing national scientific accomplishment have been conducted in developed countries. Scientific accomplishment, in the meantime, is an important index on the comprehensive quality of the people and competitiveness of a region, while IT knowledge is one of the major elements in assessing scientific accomplishment. Therefore, to increase the computer utilization ratio of the public and to spread IT knowledge in the Hong Kong will not only be helpful to maintaining the equilibrium of IT manpower supply and demand, but will also be vital to the elevation of scientific accomplishment of the manpower resources and the enhancement of the competitiveness of Hong Kong.

Secondly, I would like to talk about the channels for the training of IT talents. At intermediate to higher education level, to increase the number of universities places for diploma, degree and postgraduate courses in IT disciplines is the major way to solve the supply problem of IT manpower. At the primary and secondary education levels, to speed up the pace of computer education in secondary and primary schools will enable young people to acquire more knowledge of survival through mastering the application of computer. Accordingly, no matter what occupation they are going to engage in the future, these students will be able to improve their working efficiency by the use of computers. Certainly, some of them may become elites in computing in universities. Therefore, enhancing the IT application content in fundamental education is vital to the upbringing of IT manpower for the future.

In addition to the aforementioned conventional school education for the training of IT manpower, we should also lay emphasis on the concept of lifelong education. Modern technologies are changing with each passing day, in particular the rapid development of IT in biotechnology and microelectronics. A few years ago, had a department manager of a certain company not been learning new techniques and upgrading his knowledge, he should have lost his job by now as he was drifting far away from the sophisticated IT circle. Therefore, we can see that society is suffering from a shortage of IT professionals on the one hand, while some IT people are unable to land suitable jobs on the other. Consequently, lifelong learning and education in this age of information is of utmost importance in comparison with any time in the past. Therefore, the Government should consider establishing a lifelong education system when it considers the programme for IT manpower training. In a sense, when IT graduates finish their university education, another chapter of learning has just begun, and they have to fight incessantly for the chance to continuing
learning, because they can only adapt to the progress of today’s technology through continuing learning. When we consider the proposals in today's motion, we should consider them from the angle of continuing education. But the question is, who should run the continuing education for the IT discipline? I think the Government should play the role in the beginning. In order to encourage organizations such as universities or colleges of professional technical education discipline and IT corporations to pool resources in conducting advanced IT courses, which is corresponding to the suggestions made by some Members not long ago, the Government will be able to provide the public opportunities to continue their education and to master the latest IT knowledge via a diversified system. Consequently, they will be able to get offers of IT related jobs in all trades, or even chances of promotion.

Perhaps it is just as the verses of a poem says: "I beg the ruler of heaven to rouse up again, as rigid adherence to patterns concerning the sending down of talents shall not remain." The Government should not only provide training for talents impartially, but should also set up the technical assessment mechanism and qualification hierarchy to assess and examine the technical standard of people passing through various channels. I will touch on issues in this aspect later.

Mr Deputy, I remember when this Chamber passed the motion on developing continuing education (that is, lifelong education) moved by Mr TAM Yiu-chung in last January, we had also presented similar views. We have also urged the Government to do something on that occasion, but it seems "it is easier said than done". We have not yet brought continuing education, the key to the 21st century Gateway of Enlightenment, into full play. However, I hope we will not delay the impending IT manpower shortage problem any longer. We should base ourselves upon self-reliance to find a solution as soon as possible.

Finally, I would like to explain why I support Mr MA Fung-kwok's amendment to the original motion. Firstly, concerning the proposal of increasing sub-degree places in the original motion, I feel that, just as Mr MA Fung-kwok said, despite the Education Commission (EC) is conducting a comprehensive review on education which covers the sub-degree issue, we should not make any one-sided alteration at the present stage since it involves a broader spectrum of issues. Furthermore, I disagree with the proposal of establishing the IT institute, which Mr MA Fung-kwok has also explained his disagreement. After all, to set up an institution just for a certain discipline is
not in conformity with the current trend of education. Certainly, I cannot see any reason why it should not be a training centre for people of lesser skills, but it should not be called an "institute" in any case. Regarding the academic accreditation mechanism, I feel that technical standard assessment is more appropriate. Given that universities conduct accreditation on academic standard above degree levels, while accreditation on diploma standard at non-degree levels are also conducted by universities or tertiary institutions, so the assessment proposed in the motion should be technically oriented.

Mr Deputy, concerning the "training vouchers" issue, I think it should not be limited to the IT sector. Therefore, with these remarks, I support the amendment.

MR CHAN KWOK-KEUNG (in Cantonese): Mr Deputy, the rapid development of IT is regarded as a milestone that marks another breakthrough in human history after the Industrial Revolution. Being a city of international renown, Hong Kong certainly has to keep pace with the trend. However, as business enterprises in Hong Kong and even the community as a whole had taken an attitude of indifference towards the development of high technology, Hong Kong has been lagging behind other places insofar as IT development is concerned. Now that we are minded to rouse ourselves to catch up, we are nevertheless faced with a shortage of IT personnel.

According to the Government's consultancy report, we will have a manpower shortage of 7,000 to 50,000 in the IT field 10 years later should we continue to train local personnel at the present rate, which will eventually affect the development of the local IT industry. It is indeed a pressing task to enhance training of local IT personnel.

Having identified the crux of the problem, we must find a solution to it. When it comes to the venues for the training of talents, we will naturally think of the tertiary institutions. The Government's consultancy report stated that degree and sub-degree courses are the main source of IT personnel. This motion today also focus on this aspect and puts forward proposals accordingly, but these proposals can only address part of the problem, without providing a total solution to it. Indeed, increasing the number of places at sub-degree, degree and postgraduate levels can provide us with a certain number of IT professionals. However, the courses in local universities lack
interchangeability. For example, it is difficult for students outside the faculty of engineering to take engineering courses, and vice versa. The Government’s consultancy report pointed out that our society is in need of all-rounders to cater for the needs of the various sectors. Therefore, my view is that apart from increasing the number of places in IT courses at degree and sub-degree levels, inter-faculty IT training should also be provided in universities.

On the other hand, in order to tie in with the overall development of the IT industry, we must at the same time train skilled workers to provide technical support. Only with close co-operation among skilled workers, engineers and the management can we propel the development of the industry in its entirety.

As we all know, IT development hinges on innovation and experiments, but our education system, which has all along emphasized rote-learning, has made it impossible for students to develop their talents. Moreover, many of those students branded as "losers" under the education system are actually very creative. However, they are debarred from the mainstream education for they cannot catch up with others in their academic performance, thus preventing these students from giving play to their talents. Nevertheless, the situation in overseas countries is different from that in Hong Kong. A case in point is Bill GATES of the Microsoft. Although he had given up university education, there was still plenty of room for him to develop his talents and his achievements are there for all to see. But what would happen to Bill GATES were he born a citizen of Hong Kong?

I wish to point out that while we set our eyes on tertiary education, hoping to provide more local talents of a high quality by increasing the number of university places, we should at the same time step up efforts to provide suitable IT training for Secondary Three and Secondary Five graduates. Apart from implementing and even expanding the programme for training junior IT technicians as proposed in the Budget, we may as well work on the existing mechanisms by, for instance, including certain IT fields as the new specified trades under the Apprenticeship Scheme so as to provide more opportunities for Secondary Three and Secondary Five graduates to develop their talents and master the necessary skills.
The above measures can only provide manpower for the IT industry in Hong Kong in the short term. In the long term, we should focus on two areas, namely, the existing primary and secondary curricula and continuing education. The Government should incorporate into the primary and secondary curricula relevant IT training, such as the general application of computer programmes, to impart IT knowledge to our younger generation early and to cultivate their interests in IT when they are young at age. The provision of incentives for the public to take IT course will not only enable them to catch up with and meet the needs of society, but will also increase their job security. In this connection, the Government should expeditiously conduct a review to put in place a mechanism whereby subsidies can be granted by such means as training vouchers or tax incentives to encourage the public to pursue continuing education, thereby enabling them to master IT knowledge and hence their future.

Mr Deputy, I so submit.

MR LAW CHI-KWONG (in Cantonese): Mr Deputy, on behalf of the Democratic Party, I speak in support of Mr SIN Chung-kai’s motion. Just now Mr SIN Chung-kai already discussed with Members the shortage of IT personnel in Hong Kong. I will focus on some of the measures proposed in the original motion.

Firstly, to increase the manpower supply. From the discussion just now, we know that in order to resolve the shortage of IT professionals, we must begin by stepping up training. I think this is not difficult to understand because the demand for manpower in every industry is pyramidal, in that the demand for personnel on the lower level should be greater than that on the upper level. Even in the case of IT, personnel at the lower level are also required. However, the training strategy in Hong Kong is just the opposite. There are far more places on the upper level (that is, degree level) than non-degree places (including those in certificate, diploma and higher diploma courses). To support the proper development of the IT industry, we must enhance training for personnel of non-degree level. As we all know, many young people are now faced with unemployment and many of them even may not have completed secondary education. But there could be plenty of opportunities for development in the IT field, only that the existing system has left out this group of people. So, while the training strategy currently lays stress on degree courses, it does not mean that we should not accord importance to training on another level. Having said that,
I do not mean that the number of places on degree level or above can be reduced. All I wish to point out is that there is an acute shortage in IT personnel of non-degree level, and this indeed warrants our attention. Moreover, in respect of training of IT personnel, and as Mr SIN Chung-kai pointed out earlier on, what we should do today is to truly increase the number of places. But even if we do so, it will take two to three years before a new batch of graduates come on scene, and only by that time can we see the results. However, the problem is actually very alarming because according to many of our friends in the commercial sector, they are in dire need of IT personnel, and this shows the seriousness of manpower shortage in the field. For this reason, we must take drastic measures to enhance training of IT personnel particularly on non-degree level, which should include increasing the number of places in courses below degree level.

Secondly, the setting up of an academic accreditation mechanism. In fact, it is not true that there is no IT personnel in the market. Computer-wise speaking, for example, many young people, or even adults, can master the relevant skills and knowledge through self-learning and they manage to "assemble computer parts" or to do programming on their own. But it is not easy for them to land jobs in the IT industry, not because they are not capable of doing the job, but for the reason that they do not have the academic qualifications. At present, the advancement ladder in the IT industry still places undue emphasis on formal education. That is, one must go through the Hong Kong Certificate of Education Examination and the Hong Kong Advanced Level Examination before one can apply for IT courses in universities. This has wrecked the opportunities of many potential IT personnel. An academic accreditation mechanism can provide an advancement ladder, and through assessments of the IT knowledge and skills of ordinary citizens, whether young people or adults, they can go for recognized qualifications in the light of their own ability. This can also encourage them to pursue further studies so that they can finally converge with the formal IT education, adding new strength to the industry. Many countries such as Singapore, Britain and Australia have set up similar mechanisms to provide training for people working in the industry to acquire qualifications and technical know-how. Therefore, I think the proposal to set up an IT institute merits consideration and discussion. Just now Prof NG Ching-fai queried whether the word "institute" should be used in its nomenclature. Perhaps it is because Hong Kong people in general tend to use names that sound more humble. But taking an overview of places elsewhere in the world, the names "institutes" or "colleges" are used despite the fact that the institutions concerned do not offer training courses on degree level. Therefore,
it is unnecessary to give it a more derogatory name on purpose because it is not a degree-granting institution. Still, we should consider setting up an IT institute for the purpose that I mentioned just now. Most importantly, we must work out ways to enable those with education below degree level to have the opportunity to pursue further studies and career advancements through the academic accreditation mechanism.

Thirdly, I would like to discuss how training courses can be designed to meet the needs of technological development. A problem that always comes up in the training of IT personnel is how training courses can tie in with IT development. At present, the training courses often lag far behind IT development. As a result, the students cannot put their knowledge to use after graduation for many of the things they had learned are outdated. While it is not necessarily the duty of the Government to take appropriate contingency measures in response to changes in the market, the Government may play a more active role by providing assistance. One of the solutions is to assist those in the market to understand the market conditions. In Taiwan and the United States, websites are established by the government to provide interactive market information. So, the Democratic Party supports that similar websites be established by the Government to enhance transparency of the market and facilitate training institutes to revise the contents of their courses in the light of market demands, so that the courses can cater to the needs better. One thing that gives cause for our concern is that some of the courses may record a zero enrolment. One way to address the problem is to let the employees choose on their own the most suitable courses for themselves. For this reason, we have proposed the provision of technology training vouchers. On the other hand, our information shows that a mere 25% of companies have provided training for their employees. We, therefore, propose that the Government should consider providing certain tax incentives for these companies.

On behalf of the Democratic Party, I support the original motion of Mr SIN Chung-kai. Thank you, Mr Deputy.

DR RAYMOND HO (in Cantonese): Mr Deputy, the shortage of IT personnel has become the biggest barrier in the development of IT in Hong Kong. According to the recent consultancy report commissioned by the Education and
Manpower Bureau, there is a shortage problem of IT personnel in Hong Kong, with a shortfall ranging from 1,700 to 4,000 people. In a decade's time, the shortfall will grow to about 7,000 to 50,000. Just as a prominent figure in the local IT sector said in a radio interview early this year, local university graduates could not meet the demand for IT personnel in Hong Kong, and many IT companies found it difficult to recruit the necessary staff. If we are really going to develop the industry, we should start to enhance the training of talents in this discipline as soon as possible.

First of all, the Government should strengthen its assessment on the supply and demand of manpower, especially to industries under active development in Hong Kong, such as the IT industry. It is because we can only formulate relevant training policies and future development strategies by means of accurate forecast in manpower supply and demand.

As Hong Kong is running short of IT personnel, the Government should increase the funding to tertiary institutions promptly, so that more places for IT courses can be opened and the training of IT talents accelerated. Furthermore, very often, Hong Kong will launch relevant courses in certain latest technology only after it has come out for a period of time. In order to keep up with the latest development, the Government, tertiary education institutes and IT training organizations should enhance co-ordination in the following three aspects: to concentrate efforts on speeding up the development and importation of most up-to-date course contents, so students in Hong Kong can be able to master the most up-to-date IT development quickly; to speed up the development of IT industry of Hong Kong; and to uplift the leading position of Hong Kong in the industry.

As we are conducting more and more IT courses at various levels through tertiary institutions, I consider it unnecessary for us to look into the possibility of setting up an IT institute to improve the qualities of IT personnel in Hong Kong as some Members have suggested. It is because the same benefits can be reaped through the former solution; thus we do not need to set up an IT institute to thin out the resources. However, I agree to the proposal on the establishment of an academic accreditation mechanism for IT the discipline, because that will be helpful to IT personnel without formal IT training and those interested individuals to have their qualifications appraised and certified, which will ultimately open up the channel for their ultimate promotion.
Apart from the diploma, degree and postgraduate courses, we should also encourage different organizations and institutions to conduct more short-term refresher courses and self-enrichment courses in connection with the IT discipline, so as to enable employees in the industry and interested individuals to take those courses. The Government should also encourage employers to sponsor their staff to take relevant in-service courses, so as to improve the productivity of the staff as well as the competitiveness of the company.

In addition to the fact that we have the IT professionals who possess the recognized academic qualifications needed by the market, the consistently open circulation of recruitment information in Hong Kong should make it not difficult to match professionals with the jobs. Therefore, there is no need for us to set up an IT employment website. As a matter of fact, many companies in Hong Kong have already set up similar web sites for recruiters and job finders, so I do not think it is necessary for us to make any special arrangement.

Mr Deputy, the Government should resolve the acute manpower shortage problem in the IT industry immediately, otherwise, any IT development will just be empty talk. I so submit.

MR DAVID CHU (in Cantonese): Mr Deputy, in recent months, our financial market has been under a fever for ".com" stocks. There is great room for the growth of IT in the territory. However, a survey conducted by the Education and Manpower Bureau last month showed that there is manpower shortage in the IT industry in Hong Kong. The report predicts that the demand for IT personnel 10 years from now will be as high as 210,000 people. Even if the supply of university graduates is included, there is still a shortage of 50,000 IT personnel. This will deal a blow to the growth of IT in Hong Kong.

Mr Deputy, to solve this problem of the shortage of IT personnel, I think the Government will need to tackle the problem from the following three aspects.

First, to attract IT personnel to come to Hong Kong or to return to the territory. This will help solve the problem of the shortage of manpower in the short run. The Government has implemented the Admission of Mainland Talents Scheme in the end of last year but the response has been lukewarm.
Only four applications out of a total of 70 have been approved. The main reason for this is that the vetting and approval procedures have been too slow. Another reason is that not many businessmen knew of the details of the Scheme. So the Government should enhance its efforts in the vetting and approval procedures and also in publicity efforts. On the other hand, the Government should study into whether more incentives can be provided to attract the IT personnel who have emigrated overseas to return to the territory to work.

Second, to raise the quality of serving IT personnel and enhance their professionalism. I am given to understand that many of the serving IT personnel have not received formal training and acquired qualifications in IT though they may have the relevant expertise. The Government should provide resources and assistance to them, for example, in the provision of professional examinations so that their professional competence can be recognized as soon as possible.

Third, the training of more IT personnel. This is a key task in tackling the problem of long-term manpower shortage in the IT industry. I think the Government may adopt the following measures:

(1) to institute an academic accreditation mechanism for the IT discipline to provide a set of uniform assessment standards for the industry and all IT training bodies, both official and unofficial. It will enable those who wish to further their studies in IT to know what to follow;

(2) to increase funding as appropriate and to encourage local tertiary institutions to increase the number of places in IT courses at diploma, degree and postgraduates levels to ensure a steady supply of IT personnel for the industry; and

(3) to further encourage the business and industries to invest more resources into the provision of professional IT training for their employees.
As the saying goes, it takes 10 years to grow trees and a 100 years to rear people, the training of IT personnel cannot be expected to complete overnight. The Government must devise better training strategies for the short, medium and long terms.

With these remarks, Mr Deputy, I support the amendment and the original motion.

MR YEUNG YIU-CHUNG (in Cantonese): Mr Deputy, it is a fact that at the present and in the foreseeable future, the territory will experience a manpower shortage in IT personnel. However, I am optimistic about the possibility that the problem can be effectively tackled. Mr SIN Chung-kai who has moved the motion today has proposed a series of measures, urging the Government to tackle the problem of manpower shortage in the IT industry in Hong Kong. The DAB supports these measures in principle and we agree to them as well. However, we think that in the long run, the training of manpower in IT should start from the ground up, that is, in basic education.

Recently, I read a piece of news and that aroused a lot of thoughts in me. The newspaper reports that the Singaporean Government announced that in order to help lower-income group families make use of IT, it would provide close to HK$100 million to 30,000 households to provide them with free Internet computers, Internet services and computer courses. The move is meant to narrow the so-called "digital gap" between the high- and low-income groups, those who have received English education and those have not, and those who are at home with high technology and those who are afraid of it.

As early as in 1998, the DAB made a request of "one computer for each family" to the Government, and proposed that some sort of mechanism should be put in place to help those families who have financial difficulties and who have children in school buy a computer. As the saying goes, good tools are prerequisite to the success of a job, in this age of IT, the computer has become an important tool to the students. It can help them in revising the books and do their homework. It is as important as textbooks. Since the Government is providing textbook assistance to the poor students, why does it not consider giving subsidies to them to buy computers?
In 1999, we conducted another survey. We found that among the 1,500-plus students interviewed, 34% did not have multimedia computers. The situation was not satisfactory. It should be noted in particular that there exists an obvious relationship between the level of income in a household and whether it has a computer or not. In households with a monthly income of less than $10,000, more than half of them do not have a computer for their children. With the rise in household income, there is an obvious increase in the percentage of families with a multimedia computer.

Figures in the United States show that those who are able to master IT will find it easier to get into the prestigious schools. I cannot help but worry about this, because IT has the power to make the rich richer and the poor poorer.

The Government may have the perception that the problem can be solved if the opening hours of schools can be extended and the provision of more computer facilities for free in places accessible by the public. I do not think that these facilities will solve the problem entirely, not to say coping with future developments. The reasons are: (1) the opening hours of computer rooms are limited; (2) the number of computers available is limited; (3) some schools do not even have a computer room. Even if they have, our survey showed that more than 60% of the teachers interviewed thought that the extension of opening hours could not help meet the needs of the students.

Perhaps the Government may think that it has placed computers in community centres for free access by the public. But as far as I know, the computers in community centres are simply not enough to meet the needs of the public. Those who wish to use computers have to register first and then wait for their turn. After they have used the computer for some time, they have to wait for another turn. When the centre is to be closed for the day, then every one must go. The situation demonstrates two things: (1) there are not enough computers in the community centres; and (2) the young people can make use of the computer to develop their creativity. Learning how to use IT and growing up in a digital environment is the key to training talents in science and technology for the future.
Mr Donald TSANG, the Financial Secretary, expounded the principle of non-intervention in this year's Budget speech. So while the world is engulfed in an Internet frenzy, our greatest problem here in Hong Kong is a lack of IT personnel. I hope that the Government will not seek to apply a philosophy of "governing by doing nothing against nature" in the investment in IT human resources.

I therefore urge the Government to consider seriously the adoption of measures to increase the percentage of computers owned by the public, especially the students. In the short run, the Government should increase places in courses offered at educational and training institutions and to encourage private sector organizations to engage in corporate training and research and development in technology so that we may make greater strides and catch up with the rapid pace of development in IT.

Mr Deputy, I so submit.

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

(No Member responded)

DEPUTY PRESIDENT (in Cantonese): Mr SIN Chung-kai, you may now speak on Mr MA Fung-kwok's amendment. The time limit for your speech is five minutes.

MR SIN CHUNG-KAI (in Cantonese): Mr Deputy, first of all, I should like to thank Mr MA Fung-kwok for his amendment, which has given me the chance to clarify the misunderstandings that he has about IT.

I agree with the views expressed just now by Mr YEUNG Yiu-chung, that is, there might be a digital gap between education and information. I hope Mr MA Fung-kwok and Mr YEUNG Yiu-chung could have the opportunity to put forward a motion on IT education.
Just now I have spoken on the approaches to training talents for the IT industry. I agree with Mr YEUNG in that in the future, everybody needs to know Chinese, English, as well as the use of computer and IT. However, being able to apply IT does not mean that one could be a member of the IT industry, because being a member of the IT industry is another story. Certainly, everybody needs to know how to use IT; however, what I am advocating remains that we need a large number of persons engaging in this industry who knows how to write programmes, connect terminals, establish networks and develop a series of systems. I respect very much the proposal put forward by Mr YEUNG to educate members of the public in this regard. Actually, there would not be any problem if his speech just now should be delivered by me instead, except that the motion of this debate has to be changed first. Hence, I hope Honourable Members could separate their focus into two parts. If actions should be taken in accordance with the amendment moved by Mr MA Fung-kwok, I cannot but ask this question: Would the problem confronting us now be resolved? By 2005, we will be short of 14 000 to 30 000 degree-holding IT talents, while non-degree-holding IT talents will be 4 000 to 17 000 short. According to the Financial Secretary, an additional 1 000 places in IT courses will be provided every year, so there will be an additional 10 000 places in 10 years. Nevertheless, this is still insufficient to satisfy the demand. And this is exactly the problem which I should like to alert Members to.

What concerns me most is that actually we have in our community a batch of young people who, given appropriate guidance, could become members of the industry and hence taxpayers. Many of my co-workers were originally secondary school graduates, but after proper training, they have now become senior banking managers with decent pays. So, the crux of the problem lies in the availability of proper training. As far as our existing mechanism is concerned, however, we certainly need a breakthrough on the training front, one example being the training voucher proposal. Given that this is in line with the principles of a free economy, actually the Liberal Party should support the training voucher proposal. We should induce the market forces to take the initiative of offering training courses that will be accredited by the Government. As regards the question of whether an "academic" accreditation mechanism or a "technical" accreditation mechanism should be instituted, since both of them are dealing with qualification-related matters, I do not wish to dwell on any dispute over the choice of words. Nevertheless, I hold that the accreditation standards
to be set by the Government must be able to cater to changes in the market. In this connection, if the persons concerned have reached a certain qualification standard by way of examination, the Government should sponsor them to receive further education. That way, more institutions would be willing to offer training courses, thereby contributing to the number of additional places in IT courses. However, the total amount of government subsidy provided in this way may not exceed — I believe it would even be less than — that required to offer IT training through directly subsidized educational institutions. This is because, in the latter case, the Government would need to consider developing several thousand square feet of land as a first step, which would require a great deal of resources.

As regards websites, I do not particularly wish to get at the question as to whether websites are already in place. While the United States leads the world in terms of the number of websites, only one single website named "www.go4it.gov" is operated by the Federal Government to provide information on IT manpower resources. In this connection, Taiwan also has in place a database of software personnel and enterprises. Why do I raise this point then? I do not mean we have to provide "job-matching" services or set up a website to help the public to look for jobs, since many people are already providing such services. What we need to do is to provide market-related information, such as the kinds of talents required, the number of training places available, the training courses to be provided by different institutions and so on. Such a database should be able to offer IT trainees a variety of experiences.

Last but not least, I should like to speak briefly on tax incentives. While IT is an industry in itself, it will at the same time contribute to other industries. As such, giving support to the IT industry is at the same time giving support to other industries as well. Hong Kong does not export many goods, yet our IT personnel may be serving in such industries as clothing, catering, printing, and even the film industry to which Mr MA Fung-kwok belongs to. So, if tax incentives should be offered to the IT industry, in the end, all other industries concerned will be subsidized as well. I just wish to explain to this Council that this is exactly where the difference lies.

I so submit.
SECRETARY FOR EDUCATION AND MANPOWER (in Cantonese): Mr Deputy, in the face of Hong Kong’s transformation into a knowledge-based economy and the brisk pace at which e-trading and IT applications develop, naturally we attach great importance to both the development and the training of IT manpower. Our target is to satisfy the demand of the industry by offering adequate places in IT courses that suit the needs of the market.

To formulate manpower-training policies that suit the needs of the industry, we must have in hand some basic information regarding the manpower supply and demand situation of the industry. In this connection, the Vocational Training Council (VTC) conducts an IT manpower survey every two years. The last survey was conducted in 1998, and a new one will soon be conducted this year. Apart from that, the Education and Manpower Bureau has also commissioned a consultancy study on the manpower resources and training needs of the IT industry to better understand the needs of the industry in these respects, thereby formulating training initiatives that could best suit the needs of the industry. According to the consultancy report, the demand for IT personnel would remain keen in the coming few years. In addition to briefing the Legislative Council Panel on Manpower on the content of the consultancy report, we have also distributed copies of the report to relevant government departments and training institutions, with a view to following up the study results and adopting the suitable recommendations.

Certainly, manpower supply falling short of demand is a problem confronting IT industries worldwide. And as pointed out in the consultancy report, the 10 economies studied, including the United States the IT industry of which is so advanced, also face the same problem of varying degrees. Nevertheless, I still believe that we should substantially increase the number of places in IT courses. In this connection, apart from the conventional training courses in IT, emphasis should also be placed on enhancing the IT education provided for students not majoring in the discipline, with a view to enabling them to acquire some basic knowledge of the IT applications, thereby satisfying the needs of a knowledge-based economy. At the same time, training institutions will also be strongly encouraged to offer various short-term courses and continuing education programmes in the IT field, so that IT personnel as well as people who are interested in joining the IT industry could have the chance to update their knowledge and to learn from the latest IT development. Now, I should like to switch to the efforts we have taken in respect of training IT personnel.
At present, there is an annual average of some 7,000 students enrolled in the IT-related sub-degree, degree or postgraduate level courses offered by the various institutions funded by the University Grants Committee (UGC).

In addition to UGC-funded programmes, self-funding courses in the IT field are also offered by various UGC-funded institutions, the Open University of Hong Kong, as well as other non-local tertiary and professional institutions. In the past academic year, for example, the total enrolment on the IT-related courses offered by the respective continuing education divisions of the various UGC-funded institutions was around 19,000, with an increase of almost 6,000 students.

Furthermore, the various UGC-funded institutions are planning to offer more than 20 new UGC-funded or self-funding courses in the triennium from 2001 to 2004 to provide a total of 3,800 additional places in courses leading to such degrees as Bachelor of Internet Engineering and Bachelor of Information System and Software Engineering.

To ensure that students are equipped with basic IT knowledge, education institutions are offering IT training courses either in the form of an elective subject or as a compulsory course. As a measure to ensure the standards of their students' IT knowledge, some institutions even require their students to take at least one IT-related course or pass an IT knowledge test before they can graduate.

In this connection, I should like to make it clear that the government policy on manpower training, in particular IT personnel training, is not confined to courses at degree level. As a matter of fact, we also attach great importance to IT training for personnel at the basic levels, including people of a lower level of academic achievement. Just now Mr TAM Yiu-chung has already referred to the work of the Employees Retraining Board (ERB) in this respect. As regards the VTC, while its Hong Kong Institute of Vocational Education is currently offering a number of IT-related courses at sub-degree level, it is planning to increase the number of places in the relevant courses from around 8,000 to more than 8,500 in the coming academic year.

To closely tie in with IT development, it is important that timely short-term courses are offered by training institutions. In this connection, the various tertiary institutions are also offering self-funding IT-related courses at different levels, and a considerable percentage of them are short-term ones.
The Information Technology Training and Development Centre under the VTC is currently offering a total of some 110 short-term courses. As for the coming academic year, it is planning to offer 11 courses in e-trading and Internet development, seven *Windows 2000* courses, as well as 14 other new technology-related courses, providing a total of some 4 800 additional training places. Besides, it is also planning to present jointly with the Hong Kong Productivity Council a distance learning programme to offer training courses in new technologies. Apart from that, it will also collaborate with IT equipment suppliers to offer training courses in the most up-to-date softwares and computer language.

I believe Honourable Members are all aware that last month we introduced jointly with the industry, the VTC and the ERB a brand new IT assistant training course to equip trainees with basic IT skills to enable them to take up jobs as IT assistants. The response to the course was very satisfactory, as more than 3 200 persons applied for enrolment upon introduction of the course. So we immediately allocated more resources to increase the number of places in the trial course from 170 to 300. In his recently published Budget, the Financial Secretary has also earmarked funding to offer 1 000 training places a year, with a view to training up more junior IT personnel to satisfy market needs. Moreover, we are also actively looking into the feasibility of offering IT assistant training courses through the Internet, with a view to boosting private sector participation and benefiting more people.

Regarding the proposal for an academic accreditation mechanism for the IT discipline, we must understand that since IT is developing at a brisk pace, if employees in the IT industry are to move with the times, they have to acquire knowledge of new technologies and products through continuous learning, apply what they have learnt flexibly, and draw on the working experience accumulated along the way. As a matter of fact, more often than not the academic qualification of the person concerned is no longer the only consideration for members of the industry in selecting which candidate to employ or promote.

Moreover, given the continuous IT development and the wide variety of IT products and services available, it would be very difficult to institute a comprehensive academic accreditation system that could always tie closely with IT development. Besides, for people who have been awarded certain recognized qualifications, unless they keep up with their efforts to acquire new knowledge, their recognized qualifications would very soon become out-dated.
As such, just like Mr MA Fung-kwok who spoke earlier on, we do have much reservations about an academic accreditation mechanism for the IT discipline.

However, we are ready to consider encouraging more private organizations to participate in the provision of IT training. On the part of the Government, we could co-operate closely with the industry to play a quality assurance role. Yet this would not be the same as instituting a conventional academic accreditation mechanism. The IT assistant training course which I referred to just now might perhaps be a testing point, since we are actively considering allowing private organizations to participate in offering the course.

With regard to the proposal to set up an IT institute, I should like to point out that actually the various UGC-funded institutions, the VTC, as well as other related organizations have all been conducting a considerable number of IT training courses and research projects. What is more, some organizations have even set up relevant centres. For example, the VTC has set up a software technology centre to offer training courses in software applications.

Moreover, the Hong Kong Productivity Council has also set up an information centre for the software industry to provide marketing support and market intelligence for the software industry in Hong Kong and to facilitate cooperation between industry participants. On the part of the Government, while the Innovation and Technology Fund have already been set up, the Science Park will also be ready towards the end of 2001 to provide funding and other facilities for IT-related research projects.

The Government attaches great importance to the use of IT in enhancing service quality. In this connection, the Labour Department has been providing job seekers with information on vacancies and job-matching services through the Internet since 1998. In March 1999, the Department improved and restructured these services so as to provide the public with interactive employment services.

The Labour Department is now considering linking its interactive employment services homepage to other employment information homepages, with a view to enabling job seekers to obtain more easily the various kinds of information on employment and training. Apart from the homepages of major business associations and tertiary institutions, commercially run vacancy websites will also be included.
In addition, the Education and Manpower Bureau will be launching in July a continuing education database website to provide the public with information on the continuing education courses offered by the various institutions in Hong Kong, including the most up-to-date information on IT courses. That way, people who are interested in pursuing further studies could have a more efficient and convenient channel to find out courses that best suit their interests and levels. The proposed website will be linked to the websites of major education and training institutions as well as other websites relating to continuing education to provide one-stop services.

As regards the provision of financial assistance to enable members of the public to take IT-related courses, we plan to widen the scope of the Non-means Tested Loan Scheme in the 2000-01 academic year to cover all courses provided by non-local tertiary and professional institutions, registered schools and other recognized training institutions. We estimate that the number of eligible applicants will rise from 200,000 to 700,000, and that the total amount of loan will be around $170 million a year.

As to tax incentives, the Government currently encourages enterprises, by way of tax concession, to provide training for their employees. In this connection, employers are allowed to deduct from their taxable profits the full amount of the cost for providing job-related training for their staff. This tax concession is offered to all trades and industries to boost employers' investment in manpower training, thereby enhancing both the productivity and the efficiency of the enterprises concerned or even that of the working population as a whole. Moreover, in order to encourage the employed population to pursue continuing education and training to meet the ever-changing market needs, all salaries taxpayers (including those who pay at the standard rate of 15%) are allowed to deduct from their taxable income expenses of job-related training and education.

As announced in this year's Budget, a "Project Springboard" will be launched in October to provide Secondary Five school leavers and adult trainees with new day-time or evening bridging programmes, with a view to enabling them to receive continuing education. The programmes, which will be introduced by the Federation of Continuing Education in Tertiary Institutions, are aimed at helping participants to prepare themselves for employment or continuing education through the provision of training in many fields, including IT applications. Trainees who have completed the programmes could enrol in the higher level courses offered by the institutions concerned or by other
institutions. Upon successful completion of a programme, trainees will receive a 30% rebate of their tuition fees. This kind of subsidy is provided for trainees who have successfully completed the programmes, rather than the institutions concerned. This is a novel incentive, which I hope Members — in particular Mr SIN Chung-kai — could take note of. Besides, participants of the programmes may also apply for loans under the Non-means Tested Loan Scheme to cover the tuition fees.

Given that the concept of "technology training vouchers" would involve complicated policies and resources-related problems, we need to consider the proposal very carefully and thoroughly. For example, we may not support the Government allocating public funds to directly subsidize the institutions concerned and at the same time further drawing on the public funds to provide financial assistance for trainees in the form of "training vouchers". I urge the Honourable Member who put forward this proposal to consider the question of resources allocation. Maybe I should cite another example. Given that we are now subsidizing 82% of the operating costs of tertiary institutions, will the Honourable Member advocating the idea of "training vouchers" agree to the Government turning the direct subsidy into university education vouchers to be issued directly to students? Hence, I hope we could further discuss the issue with Members.

The amendment proposed by Mr MA Fung-kwok suggested the Government expediting the pace of promoting IT education in primary and secondary schools, and increasing by various ways and means the percentages of computer usage and ownership among the general public and students in Hong Kong. I should like to stress that we attach great importance to IT education in primary and secondary schools. Back in 1998, we already published a five-year strategy on IT education in primary and secondary schools. This strategy on IT in education comprises largely four parts which include expanding opportunities for students to use IT and to connect to the Internet; providing IT training and support for all teachers; enhancing the implementation of IT-aided instruction in schools; and cultivating an ethos which is conducive to the development of IT education.

In order to ensure that students (in particular students from families of limited means) could have more opportunities to use IT facilities, incentive grants are offered to encourage schools to allow their students to use the schools' computer rooms and other IT facilities after normal school hours. Besides, we
will also donate surplus computers to interested institutions or organizations to benefit the needy students.

Apart from that, we also seek to upgrade the practicability of IT education at secondary school level. To this end, we will introduce "Information Technology" as a new examination subject in the Hong Kong Certificate of Education Examination to be held in 2002. Schools may offer this new subject to Secondary Four students starting from the coming academic year. The focus of the subject should be placed on computer applications like multimedia animation authoring, elementary homepage production and so on.

As a measure to promote the use of IT and to cater to the needs of those people who do not have any computers, computers with Internet access have been installed in a number of public places for use by students and other members of the public free of charge. At present, more than 1 800 computers have been installed in various District Offices, town halls, community centres, post offices, public libraries and youth centres. We expect the number of such computers installed in public places to rise to 2 200 towards the end of the first half of the year.

Further still, the Government has also introduced a free e-mail service scheme in June last year to provide the public with free e-mail accounts through 16 Internet services providers and IT-related companies. As at the end of last year, some 550 000 e-mail accounts were provided to the public under the scheme.

All in all, the Government has already put in a considerable amount of resources to ensure that the IT industry could have a sufficient supply of manpower to contribute to the development of the industry. We will certainly review the relevant policies on IT training on a regular basis, with a view to offering courses that could best suit the needs of the times and providing interested members of the public with adequate opportunities to receive IT training.

Thank you, Mr Deputy.
PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr MA Fung-kwok to Mr SIN Chung-kai's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr SIN Chung-kai rose to claim a division.

PRESIDENT (in Cantonese): Mr SIN Chung-kai has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Edward HO, Dr Raymond HO, Mr Eric LI, Mr LEE Kai-ming, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the amendment.

Mr CHEUNG Man-kwong, Mr SIN Chung-kai and Mr LAW Chi-kwong voted against the amendment.
Mr CHAN Kwok-keung, Mr CHAN Wing-chan and Mr WONG Yung-kan abstained.

Geographical Constituencies and Election Committee:

Mr David CHU, Mr NG Leung-sing, Prof NG Ching-fai, Mr MA Fung-kwok and Mr Ambrose LAU voted for the amendment.

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Dr YEUNG Sum and Miss Emily LAU voted against the amendment.

Miss CHAN Yuen-han, Mr Jasper TSANG, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHAN Kam-lam and Mr YEUNG Yiu-chung abstained.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, 14 were in favour of the amendment, three against it and three abstained; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 20 were present, five were in favour of the amendment, eight against it and six abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr SIN Chung-kai, you may now reply. You have up to three minutes and 27 seconds.
MR SIN CHUNG-KAI (in Cantonese): Madam President, to begin with, I hope that Members can realize the dimensions of the problem. An average large scale website will need as many as more than 1 000 IT professionals. So, it will be very good to the stock market of Hong Kong if a greater number of these companies can be listed here. But the sustained development of these companies is quite another big issue.

What is most contentious in my motion is perhaps the part on training vouchers. I hope that Members can realize that while this idea is certainly innovative, it is nonetheless in line with the principles of free economy. So, I hope that the Liberal Party can support it; Members belonging to the Democratic Alliance for the Betterment of Hong Kong have already said that they are basically supportive of the idea. The Secretary discussed the possibility of adopting a coupon system for university education, but I must say that it is not my intention to involve university education in my discussions on training vouchers. I am now talking about manpower training, and a coupon system is certainly suitable for manpower training. The first and greatest advantage of a coupon system is that it gives trainees more choices, in the sense that they can choose among different lecturers on the basis of whether or not they can provide them with adequate help and whether or not they can pass onto them the skills required. Second, with a coupon system, courses can be designed and developed flexibly in response to market needs. Third, provided that the Government can put in place a qualifications assessment mechanism, it can then focus its work on qualifications assessment, leaving the market to provide the courses required. We can see that in many foreign countries, similar systems have yielded considerable success. That is why I hope that the Government can really adopt an innovative attitude in this respect. I do not think that the introduction of such a system should be restricted to the IT industry only, so I will certainly support the efforts of Members belonging to the Hong Kong Federation of Trade Unions (FTU) to fight for the introduction of such a system to the manpower retraining of other trades and occupations. But if we look at the manpower situation of the IT industry, we will see that by the year 2010, even for non-graduate posts alone, there will be a shortage of 56 000 people. Assuming that the Government can train 1 000 people annually, the total output for the next 10 years will be 10 000 people. But then, there will still be a shortfall of more than 40 000 people. Since the shortage is going to be so acute, we must focus our efforts on this first. For other trades and occupations, I think
that the FTU and other trade unions can continue their efforts or even propose some revolutionary measures. I will welcome all this. The crisis we are now facing cannot possibly be resolved by the adoption of conventional measures. Mr MA Fung-kwok has proposed to inject huge resources into existing institutions and mechanisms. But I must say that we are not talking about just several hundred people; rather, we are looking at the thousands of employees mentioned in this very detailed report of the Government. I hope that Members can adopt an innovative attitude and come up with a new measure. I also hope that Members from the Liberal Party can give me their support.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr SIN Chung-kai, as printed on the Agenda, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Miss Emily LAU rose to claim a division.

PRESIDENT (in Cantonese): Miss Emily LAU has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.
Functional Constituencies:

Mr LEE Kai-ming, Mr CHEUNG Man-kwong, Mr HUI Cheung-ching, Mr CHAN Kwok-keung, Mr CHAN Wing-chan, Mr SIN Chung-kai, Mr WONG Yung-kan, Mr LAW Chi-kwong, Mr FUNG Chi-kin and Dr TANG Siu-tong voted for the motion.

Mr Edward HO, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Dr LEONG Che-hung, Mrs Sophie LEUNG, Mr Howard YOUNG, Mr LAU Wong-fat and Mrs Miriam LAU voted against the motion.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Fred LI, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Miss Emily LAU, Mr TAM Yiu-chung, Mr David CHU, Mr CHAN Kam-lam, Mr YEUNG Yiu-chung and Mr Ambrose LAU voted for the motion.

Mr NG Leung-sing, Prof NG Ching-fai and Mr MA Fung-kwok voted against the motion.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 20 were present, 10 were in favour of the motion and 10 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 20 were present, 16 were in favour of the motion and three against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the motion was negatived.

DETAILS OF PROMOTING MANDATORY PROVIDENT FUND SCHEMES

MRS SOPHIE LEUNG (in Cantonese): Madam President, starting from 1 December this year, contributions will be made to the Mandatory Provident Fund (MPF) schemes. In Hong Kong, there are still close to 2 million employees who have not yet joined any kind of provident fund schemes. The 21 recognized trustees of MPF contributions are making massive publicity campaigns to fight for a share in this huge market.

Many employers and employees, especially those employers of small and medium enterprises (SMEs), are dazzled, bewildered and at a loss in the face of this wave of MPF advertising. Not many of them will benefit so much from this at all. The problems faced by employers and employees in common can be reduced to the following three:

First, they do not know how to choose a MPF scheme which best suits the nature of their business. This applies especially to those trades with a high degree of staff mobility, for example, the catering industry or those trades whose staff earn their income mainly in the form of commission. They are at a loss as to how to choose a MPF scheme.

Second, many employers and employees know nothing about the investment tools and concepts in the trust schemes. They are only familiar with tools like the savings passbook or fixed deposits. If the employers and the employees do not fully understand the investment tools and concepts, it is difficult for them to weigh against the risks and returns of different tools of investment and to judge whether the relevant MPF advertising is credible, or if the schemes are desirable.

Third, many employers and employees do not know what kind of changes they will have to make in the management of their companies in order to facilitate the enforcement of MPF schemes. We must bear in mind that 98% of the companies in Hong Kong are SMEs and their number amounts to 280 000. Close to 90% of these companies are small companies employing 10 or less staff.
Many of these companies are even mini companies with just a handful of workers. These small companies do not have a formal personnel department and they do not maintain systematic records on the information of their staff. Of course, they have such information as the addresses of their staff, but since the capacity of each member of their staff is usually fully occupied, there is no spare capacity for personnel management or other kinds of management work. Even if the boss is aware of the need to make some internal changes once the MPF scheme is in place, in practice he will find it very difficult to determine what kind of matching actions or changes should be taken.

In general, many employers and employees do not have a good understanding of the MPF schemes. Although the Mandatory Provident Fund Schemes Authority (MPFA) has launched some large scale publicity programmes since the beginning of this year, to date the focus of these efforts is still on reminding the public of the impending implementation of the schemes and to make them aware that the MPFA has already been set up. This focus is obviously unable to meet the practical needs of employers and employees.

I am proposing this motion today in the hope that both the Government and the MPFA will intensify their promotional efforts. For the SMEs in particular, the focus should be reset at helping them make a choice among the various MPF products available. I would like to ask the MPFA to liaise with the employers’ associations and trade unions of all sectors and hold seminars and talks on MPF. Then staff should be sent to attend these meetings and make detailed and objective explanations, and to respond to questions raised by employers and employees. I know that some employers’ associations have held seminars of a similar nature recently where officers of the MPFA are invited to attend. The conference room was packed to the rafters, showing that the MPF issue is receiving much public concern and that there is a great demand for information. In addition, I would like to suggest that the Government and the MPFA should make use of the resources and local networks of the District Councils to conduct promotional activities at the local level and with selected target audiences in mind. These would include employers and employees who need to know about the MPF schemes. I also suggest the relevant parties to print leaflets as soon as possible to educate both the employers and employees on MPF products, and on the concepts, risks and returns of common investment tools. These should be explained in a simple manner so that they can have a better understanding of the advice given by the trustees and investment managers. In this way they can have greater confidence in the MPF schemes and of course, the final decision to invest will be undertaken by the investment managers.
Madam President, the motion proposed by me today is originally a very common one and it is proposed because of the fact that MPF schemes will be implemented at the end of this year. So I hope that this will make the people of Hong Kong know more about things that they ought to know. But several Honourable Members have proposed many amendments to the motion. I would like to respond to the amendment proposed by one of my Honourable colleagues, that is, Mr LAW Chi-kwong. Mr LAW's amendment mentions about the need to prevent employers from cutting back the salaries and benefits of their employees through the implementation of these mandatory schemes. The Liberal Party is aware of Mr LAW's concerns for the employees but we do not think that such worries are well-founded. First of all, we need to know that those employers who have running MPF schemes for their employees are all doing this at their own initiative. In the last motion discussed earlier, Mr SIN Chung-kai, in his concluding speech, mentioned the sustainable development of companies. I agree to this point of view. If we really want to see sustainable development of the business and industries, we need to recognize the first and foremost requirement for this is to have a harmonious relationship between the employers and employees. I think the argument put forward by Mr LAW does not present us with sufficient grounds to justify the existence of such worries. His comments would merely be sowing the seeds of discord in otherwise good labour relations. That is unnecessary. As I have just said, these employers acted at their own initiative in setting up provident funds for their employees before there is such a thing as MPF schemes. It can therefore be seen that these are indeed good bosses who are concerned about the benefits of their staff and the retention of talents. What reasons do they have to cut back the benefits of their employees? According to the information from the MPFA, of the more than 300 applications for exemption received, only one employer has made changes to the provident fund. But that employer has obtained the prior approval from his staff. Therefore, the Liberal Party thinks that Mr LAW's worries are unfounded. We understand the reasons behind his views but we cannot agree to them. From another perspective, under the existing labour laws, the employer cannot alter any terms and conditions in the employment contract unilaterally. We should let employees know their legal rights and even if employers wish to use excuses to cut back the salaries and benefits of the employees, they will not be successful. I wish to stress here that the Government and the community have provided employees with sound mechanisms to protect their interest, and there are also many channels of complaints available to the employees such as the Labour Department.
As for the amendments proposed respectively by Mr LEE Cheuk-yan and Mr LEUNG Yiu-chung, personally I think they are not logical. Mrs Selina CHOW of the Liberal Party will expound on these.

With these remarks, Madam President, I beg to move. I would also like to raise the point that the Liberal Party hopes that Honourable Members will support our original motion and vote against the amendments proposed by Mr LAW Chi-kwong, Mr LEE Cheuk-yan and Mr LEUNG Yiu-chung. Thank you, Madam President.

Mrs Sophie LEUNG moved the following motion: (Translation)

"That, as the Mandatory Provident Fund schemes will affect the vast majority of industrial and commercial enterprises and employees in Hong Kong, in order to ensure that both employers and employees understand the schemes fully in order to protect their interests, this Council urges the Government and the authorities concerned to explain to this Council expeditiously the details in promoting the schemes and make full efforts to promote and publicize the schemes for their smooth implementation."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mrs Sophie LEUNG, as set out on the Agenda, be passed.

PRESIDENT (in Cantonese): Mr LAW Chi-kwong and Mr LEE Cheuk-yan will move amendments to this motion respectively. Mr LEUNG Yiu-chung is to move an amendment to Mr LEE Cheuk-yan’s proposed amendment. Their amendments have been printed on the Agenda. In accordance with the Rules of Procedure, the motion, the amendments and the amendment to the amendment will be debated together in a joint debate.

I will first call upon Mr LAW Chi-kwong to speak, to be followed by Mr LEE Cheuk-yan. The time limit for the two Honourable Members is 10 minutes respectively. Then I will call upon Mr LEUNG Yiu-chung to speak, his time limit is seven minutes. Members may then express their views on the original motion, the two proposed amendments and the proposed amendment to the amendment to the motion. I will now call upon Mr LAW Chi-kwong to speak.
MR LAW CHI-KWONG (in Cantonese): Madam President, I am very grateful to Mrs Sophie LEUNG for proposing a very important topic for discussion today, and that is also something which millions of workers in Hong Kong are very much concerned about. I am very grateful for the opportunity to discuss here in this meeting an issue of concern to us and for the opportunity to make amendments. I hope that she will not mind our doing so.

For some of the arguments put forward by Mrs Sophie LEUNG, I think Mr LEE Cheuk-yan will cite many actual examples later to let our Honourable colleagues from the Liberal Party know. As a matter of fact, if we notice the discussions in the meeting of the Panel on Welfare Services this Monday, we will know that Mr LEE Cheuk-yan criticized the Government for being the great unscrupulous boss who compels the other commercial organizations to turn into small unscrupulous bosses. He was referring to the modifications being made by these organizations to the provident fund schemes for their employees. The issue is indeed under discussion among the subvented organizations, that is, about the issue of reducing the contributions to the provident funds. So these worries are not unfounded. Many of the details have been discussed on many occasions and so we are compelled to bring out these worries for discussion in this Chamber. Our purpose is to arouse the concern of the public. The Liberal Party has just now hinted their confidence in this matter and that is almost a kind of guarantee, though I do not think that they are making any kind of guarantee here. However, I believe if the Liberal Party will oppose my amendment later, that will imply that the Liberal Party is willing to make the guarantee that employers in Hong Kong do all have a conscience and that they will not cut back on these benefits. I hope that this is indeed the truth of the matter. However, things often turn out to be different from our expectations.

In less than one year's time, most of the employees in Hong Kong will join the MPF schemes. Do MPF schemes give genuine retirement protection to the public? The Democratic Party has reservations about this. Recently, many scholars and studies have pointed out that MPFs will not necessarily protect the interests of the employees. The Democratic Party always thinks that a central provident fund will be a better choice. However, we are not discussing the issue of whether a central provident fund or a mandatory provident fund should be set up.
However, employees in general are faced with issues of the kind which Mrs Sophie LEUNG thinks that we are worrying too much. But while the employees are given the so-called protection, they face the possibilities of reductions in salaries and benefits. If these problems are not effectively tackled, the Government and the former Legislative Council which passed the relevant law may become the accomplices of slashes in the salaries and benefits of the employees. Therefore, we feel that this is an important issue that must be given due consideration.

The MPFA, the Labour Department and the relevant officials have made the call that when we consider how the MPF schemes are to be implemented, we must view the provident fund and MPF proposals from a long-term perspective and that the employers should not cut back on the existing benefits of the employees. However, these calls do not seem to be very effective. From the reports we know that many big companies are preparing to reduce the contributions made to existing provident fund schemes which offer benefits better than those required in the Bill. For example, under existing provident funds, if the employer has to make a contribution to the amount of 10% of the salary of the employee, the implementation of MPF schemes will reduce the employers' contribution to 5%. This is cutting back on the salaries and benefits of the employees in disguise.

There are about 19,000 voluntary provident fund schemes set up under the Occupational Retirement Schemes Ordinance with about 900,000 employees involved. The MPFA estimates that about 13,000 of these schemes which are eligible for exemption will lodge applications. But to date, the MPFA has only received some 500 applications and the percentage of these applications against the total is very low. That is to say, most of the eligible employers have not applied to retain the existing schemes. With only more than a month's time before the deadline for application of exemption on 3 May, will the Government and the authorities concerned be merely referring to the matter in passing in the Council and let the Labour Department send a letter calling for applications for exemption and that is all?

For those SMEs which do not have any provident funds, the implementation of the MPF schemes will increase their costs instantly. It is the intention of the legislation that both the employers and employees will make equal contributions to MPF schemes, but is this really the case? Now that the economy is just at the initial stages of recovery, the employees have only very
limited bargaining power. It will not at all be difficult for the employer to include his contributions in the salary of the employees through cutting back their salaries and benefits, that is, to transfer the cost of implementing MPF schemes onto the employees. Therefore, the Government and the relevant authorities should take proactive measures to encourage employers to retain those existing occupational retirement schemes which have more favourable terms and conditions than those required by the legislation. What the Labour Department has been doing so far is only sending letters to employers and nothing else. There are no other measures encouraging employers to take such moves. I doubt if many employers will read the letter and respond to the call from the Labour Department.

There are some employers who may not have any plans to modify their running provident fund schemes. Maybe they do not know that 3 May is the deadline to apply for exemption. It is only our wishful thinking that the deadline is set on that day. These employers may not want to exceed the deadline intentionally, for they may simply be unaware of this deadline. We hope that the Government and the MPFA will approach these companies which have already set up provident funds and to try to know why they have not applied for exemption. The employers should be told of the advantages of retaining the existing schemes such as enhancing their corporate image, giving a boost to staff morale and, as Mrs LEUNG has said, promoting better employment relationship. These companies should be encouraged to apply for exemption as soon as possible. We agree with Mrs LEUNG when she said that most of the employers and employees had only very limited knowledge of their rights under the relevant legislation on provident funds and MPF schemes. They have still a lot of questions on the contents.

The sensational wave of publicity on MPF products by the banks and insurance companies at present is focused only on the merits of the products or their so-called selling points, but not the rights of the employers and employees. When compared to advertising as these, the promotional efforts of the Government and the MPFA do not stand out at all.

The MPF is such a brand new requirement. It will affect the interest of millions of employers and employees. But how much resources has the Government put in publicity and promotion to date? Problems are beginning to surface, though some of them may just be rumours. Such kind of worrisome things are happening almost day in and day out. Is the Government going to sit back and do nothing about them?
As for the original motion proposed by Mrs Sophie LEUNG, the amendment by Mr LEE Cheuk-yan and the amendment by Mr LEUNG Yiu-chung to Mr LEE's amendment, the Democratic Party is of the view that the objectives of these Honourable Members are the same. They all hope that when MPF schemes are implemented, both the interests of the employers and employees can be protected, and hence the MPF schemes can take on a smooth course. Therefore, the Democratic Party will support all of these three motions. However, the Democratic Party understands that the further amendment proposed by Mr LEUNG Yiu-chung to urge the Government to issue guidelines may not be feasible under current provisions in law. So we hope that the Secretary, who is going to be the Director of the MPFA, will try his best to protect the rightful interests of the employees within the scope permitted by the existing legislation.

I so submit to support the motion and all the amendments. Thank you, Madam President.

MR LEE CHEUK-YAN (in Cantonese): Madam President, first of all, I would like to thank Mr LEUNG Yiu-chung for making amendments to the wordings of my amendment. But I am sorry that other Members have to clumsily say "the amendment, moved by Mr LEUNG Yiu-chung to Mr LEE Cheuk-yan's amendment" just like what Mr LAW Chi-kwong did.

Mrs Sophie LEUNG said just now that this debate was not charged were it not for Mr LAW Chi-kwong who had unnecessarily put some gunpowder in it. I intended to say and I had actually written down that "today's debate is insipid". Mr LAW Chi-kwong's amendment and even my amendment are insipid because the whole issue makes me feel anxious and tensed and I fail to see any solutions. Even if Mr LAW Chi-kwong's amendment is passed, it could not resolve my greatest concern, and even if my amendment is passed, the issue can still not be solved because the defective statutory framework has already been formulated. As we all know, I opposed this legislation but I am not going to recap what happened them. Up till today, we are not sure if the legislation can solve the labour problems caused by the MPF schemes.
The Hong Kong Confederation of Trade Unions worries that the implementation of the MPF schemes will lead to labour problems. Actually, Mrs Sophie LEUNG, the nightmare has started and we project that there will be two waves of labour disputes. The first wave caused by employers' reducing the retirement protection under the Occupational Retirement Schemes Ordinance (ORSO) schemes has begun while the second wave will emerge before 1 December. It will be caused by employers' transferring the costs of the MPF schemes to employees in the form of wage and benefit reductions. These are our worries, and I would discuss the first wave first.

Mr LAW Chi-kwong has just said that out of 19 000 schemes, 11 000 are set up before 1995, covering 840 000 people. These 11 000 schemes are eligible to apply for exemption under the Mandatory Provident Fund Ordinance. In other words, if the existing schemes are better than the MPF schemes, applications for exemption may be made. We are very much worried that the introduction of the MPF schemes will trigger a wave to reduce the protection under the existing schemes. We have in fact held a lot of relevant discussions over the last week.

I would like to say that this is an immediate concern in the private sector, and I hope that Mrs Sophie LEUNG can help us solve this problem. It involves the Inchcape Pacific Limited, that is, the Li & Fung Distribution Group now. When the Li & Fung Distribution Group acquired the Inchcape Pacific Limited, there was a pension scheme for staff. The rate of contribution was 10% and employees did not need to make contributions. When an employee retires, he may also choose to collect an amount that is 1.5 times his monthly salary. In other words, he can choose the more favourable of the two. The existing pension schemes is really good. Even though the company has been acquired by the Li & Fung Distribution Group, everything has been going smoothly. However, the Group issued a letter to all employees on 6 March, notifying them that the pension scheme would be terminated on 31 March. Consultation was not held and the Group only announced that the old scheme would be terminated on 31 March, and the Group would then make 5% MPF contributions. From 31 March onwards, the rate of contribution will be reduced from 10% to 5%. I hope Mr Victor FUNG is listening to this, but I wonder if he did not know this or he knew it but still permitted the Group to do so. When he acquired the company, he promised that he would not change employee benefits. But he is now reducing their benefits under the pretext of the MPF schemes. How can the problem be solved? Mrs Sophie LEUNG said that such things should not
happen because employers had set up MPF schemes on their own accord and they attach importance to employee benefits, that they would not take the opportunity of the implementation of the MPF schemes to exploit employees. But employee benefits have been reduced and consultation has ironically not been held. It was a high-handed move. I would like to read out the content of one paragraph of the letter from the Labour Department — the Commissioner for Labour is not here today — "We do not wish to see any employer taking the opportunity of the implementation of the MPF schemes to reduce the benefits under the existing scheme.". Now that we have this incident, what should be done? The MPFA has published a nice booklet in which two characters reminiscent of the Chief Executive and Mrs Anson CHAN made "give me five" gestures. One paragraph in the booklet reads, "the objective of the linkage arrangement is to reduce interference with the existing schemes and not affecting the contractual relations between employers and employees as far as possible." This is right, but the realistic situation is that the existing schemes have been interfered with and the existing contractual relations between employers and employees have been affected. So what? What can be done? Mrs Sophie LEUNG said that, under the existing labour legislation, an employer cannot unilaterally amend the terms and conditions of an employment contract, yet, what if an employer has unilaterally reduced employee benefits? What can be done? According to the law, an employer cannot unilaterally reduce employee benefits but if he really reduces employee benefits unilaterally, he can be regarded as dismissing an employee after giving him his pension. In that case, an employer will more or less be willing to give an employee his pension. He will not be unwilling to give an employee his terminal benefits, and perhaps he may find it best to give an employee money so that he will go. But the problem is that the existing legislation only safeguards that an employee will receive severance payment, but it has not safeguarded that an employee will surely receive benefits under the old schemes. This is the worst case and even the employee's right to be consulted cannot be protected. It is now stipulated that if an employer wants to change the pension schemes of employees, he must obtain the consent of 90% of the employees. It is true that modifying the details of the schemes may affect employee benefits and an employer must obtain the consent of 90% of the employees, but the worst thing is that this is not necessary in the termination of schemes. The Group is now playing the trick and it is going to terminate the existing scheme. What protection can the labour legislation give? What is the use of the letter of the Labour Department? I hope that the Labour Department will finally prove to me that it can perform its function. If it can properly handle the matter, I will really be very happy. I would like to ask the
MPF Authority and the Commissioner for Labour to talk to Mr Victor FUNG and ask him not to terminate the scheme. Certainly, Mrs Sophie LEUNG can also help out and I hope that they can really allow these 500 personnel to enjoy the benefits under the old scheme. If so, there is still love in the world.

Another big problem not only emerges in the private sector. As Mr LAW Chi-kwong has said, the Government takes the lead to act without conscience and it forces the subvented sector to do so. It is because the Government has always granted 6.8% contributions but new participants are only granted 5%. Ultimately, the Government will force the subvented sector to provide less favourable MPF schemes. Therefore, I fully support Mr LAW Chi-kwong's remark that we have to encourage employers to retain the existing schemes. But this seems to be an empty talk because it is just "encouragement" and it cannot solve the problem I mentioned by me after all.

My amendment is also pinpointed at the old schemes. What are our worries? Why do I ask for guidelines to be formulated and call upon employers and trustees to notify employees before 3 May? It is because employees are participants in such schemes and they have the right to know. I am most worried that the existing legislation has not specified that an employer must notify his employees if he does not apply for exemption. What would happen is that an employer may be indifferent and not turn a hair. Regardless of whether he does so intentionally or unintentionally, an employee will finally discover when he wakes up on 4 May that his employer has not applied for exemption for the existing schemes, and he cannot remedy the case as the old schemes will not exist any more. Therefore, I strongly ask trustees to notify the employees concerned before 3 May for they should at least let employees know that whether the existing schemes will continue to exist. Employees must know this before they can hold discussions. If they do not know what will happen, they cannot hold consultations or discussions. I wonder if the Secretary can tell me later if the Government will work out guidelines to call upon employers and trustees to do so. I used the word "require" but Mr LEUNG Yiu-chung has helped me amend it to "appealing for". Now that we cannot make any new legislation, it is impossible to "require" but I hope that employees will at least be given the right to knowledge. Otherwise, if employees only discover that on 3 May, it will be far too late.
We expect that a second wave will emerge after 1 October and we will then see if there will be instances of wage and benefit reductions. I certainly do not want such things to happen. For employees, the MPF schemes are untimely because employees have very low bargaining power now. Introducing the schemes at this time will easily cause a regression in employee benefits and even reductions in benefits. Yet, the legislation cannot help them. I can only tell wage earners in Hong Kong that the trade union may help them and we want to solve the bullying of employees by means of collective bargaining power.

Lastly, I support Mrs Sophie LEUNG’s point that more publicity efforts should be made. At least, we should let employees know more so that they will know how to exercise their rights to fight for their due benefits. Thank you, Madam President.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, having listened to the remarks made by Mrs Sophie LEUNG, I have an impression that she does not support Mr LEE Cheuk-yan’s amendment and the further amendment proposed by me, but I wonder if I am right about it. I find it really strange that Mrs LEUNG even did not support my amendment. It is mainly because my amendment has only deleted the word "require" from Mr LEE Cheuk-yan's amendment and substituted it with "issue guidelines appealing for" just like the Liberal Party’s supporting the issuing of guidelines by the Government in respect of wage reduction. Now that they could support the issuing of guidelines by the Government in respect of wage reduction in the past, why can they not support the issuing of guidelines this time around?

Why do I have to amend Mr LEE Cheuk-yan's amendment? Precisely because I am afraid that even though we ask for legislation to be made, this is objectively impossible and the Liberal Party will definitely not support this. Therefore, I have used the wordings "issue guidelines appealing for". It is a great pity that they cannot even support my proposal and I feel really very sorry. Perhaps they do not support it mainly because they think that all employers in the world are employers with conscience, and they find it superfluous to issue guidelines. Such being the case, they should reverse the support they gave to the guidelines on wage freeze issued by the Labour Department. Why? It is because they assumed all employers were good employers. But they have not reversed anything today and they still oppose the amendment I have sought to make to Mr LEE Cheuk-yan's amendment. In my view, they are biased.
towards a certain party, they close their eyes, failing to see the facts such as the
fact to which Mr LEE Cheuk-yan has referred. When we discussed the block
grant to subvented social welfare agencies last week, they also closed their eyes
and failed to see the facts. We should know that the social welfare sector is
most worried about the reduction of the rate of pension contributions from 6.8% to
5%. It is absolutely true that the Government will similarly reduce the rate
of pension contributions in respect of the contracts of civil servants in future.
Why did they close their eyes and fail to see these facts?

We know that time is pressing and we do not have other alternatives. We
have no alternative but we only hope that the Government will issue guidelines.
If there is enough time, and were it not for the Basic Law stipulation that
Members cannot make such legislation, we will certainly attempt to pass a new
law. But it is a pity that the objective situation disallows us to do so.
Therefore, we hope that the Government will really act as Mr LAW Chi-kwong
has said and try its best to appeal to employers within the remaining time. We
have received many complaints and many employees have told us that they are
not clear about the tendency of employers, and employers disdain to brief
employees on it. Why? It is because there is no stipulation, and employers
think that they can make any decisions on their own without consulting the
employees. In that case, have employers acted with conscience? Many
employers have not even informed their employees. I do not know if the
Government has counted or inquired about the number among the hundreds of
companies applying for exemption from MPF requirements that have really held
consultations. How were the consultations held? Will they tell their
employees: "Well, if you do not like it, you may leave"? Is that consultation?
If so, I have nothing to say.

Members should know that many employees have no alternative or choice
but accept the so-called consultation, what else can they do? Should they refuse
to accept it? If they really do not accept it, employees can very simply take the
money and leave, just as Mr LEE Cheuk-yan has said. But we all know that
everyone is trying hard to keep his job and he has no alternative. We have only
asked to give employees the right to information. If they even do not have the
right to information, what can they get? We always say that our society has to
be liberal, open and highly transparent, why can such a simple request not be
complied with? I really do not understand why the Liberal Party has to be so
protective. We have only asked employers to discuss with employees, and we
have not asked them to do anything else. What would they lose? What are
their difficulties? How would employers' interests be jeopardized? If employers refuse to discuss, they will appear domineering as it they have regressed to the 1940s to 1950s. I do not think they should do so. We should be liberal nowadays and I hope that Mrs Sophie LEUNG will accept our views.

Madam President, we oppose the MPF schemes all along because the schemes are actually disastrous. As we have said before, we would only support such schemes as Old Age Pension Scheme and Central Provident Fund because these schemes give more protection. Actually, the Hong Kong Social Security Society has made some calculations. In regard to the MPF schemes, for an employee who earns a monthly salary of less than $10,000, even if he makes contribution for 25 years, he will only receive $1,700 monthly 25 years later, even less than the $2,500 Comprehensive Social Security Assistance payment for elderly persons. Such a small amount will not be of much help in meeting the actual daily expenses.

The MPF schemes will also fail to give housewives and retirees protection. What are the merits of the schemes? Are we discriminating against women? Do we think that women usually depend on money given by their husbands? Why do we not protect these people? This is the prominent demerit of the MPF schemes. I wonder why should the law stipulate that employers can choose trustees without the consent of employees while employees can at best select a proposal after the employers have chosen the trustees. It is superfluous and what is the use? If an employer does not need to consult his employees before choosing a trustee, the employer's power will be greatly increased and the employees will be deprived of their legitimate rights.

Lastly, Madam President, I am most unhappy that the Government has taken the lead to be an unscrupulous employer, and then forced many employers to be employers. This situation is really terrifying. Madam President, I so submit.

MR CHAN KAM-LAM (in Cantonese): Madam President, the principal legislation on the MPF schemes was enacted in mid-1995 and the Provisional Legislative Council formulated the Regulation on the details of implementation in 1998. In the meantime, the DAB and the FTU have made various proposals to perfect the MPF schemes. Yet, it is a pity that most of the proposals have been declined by the Government on different grounds. But it did bear out a
strong message that the Government wanted to shoulder as few responsibilities as possible when it designed the MPF schemes. One premise was that it should facilitate the operation of funds and it was worried that the industry would collectively boycott the schemes out of dissatisfaction, rendering the MPF arrangements non-viable.

Actually, as early as the time when the Government requested to enact a law on the MPF schemes, many people were worried that some employers would take the opportunity of the implementation of the MPF schemes to reduce employees' salaries in disguise. Given the deficiencies of the MPF schemes, the negligible contributions, no guarantee of minimum return and the fact that MPF payments can offset long service payments and severance payments, it cannot guarantee that grass-roots employees at large can live with dignity after retirement and the grassroots will virtually suffer double losses.

Madam President, we are discussing some pressing issues today. But even if publicity and education as well as the convergence with the occupational retirement schemes have been resolved, it does not mean that the retirement protection system in Hong Kong is perfect. The MPF schemes still have quite a few structural deficiencies that have not been tackled, therefore, we must take this opportunity to restate the position of the DAB in respect of perfecting the MPF schemes.

First, we think that the regulation on the MPF schemes specifies that every master trust scheme must offer "capital preservation funds". Actually, it is only a fund that "guarantees the collection of administration fees" because there is simply no guarantee for minimum return. It is only specified that if the investment return of a fund falls below the savings interest rate, the fund manager cannot collect administration fees. The Government trusts the sector will offer products with guaranteed rate of return for employees to choose from. Thus, the DAB is of the view that, after the formal implementation of the MPF schemes, if no product in the market offers a guaranteed rate of return, the Government must fulfil the pledge it made when the Finance Committee of the Legislative Council granted the vote in February 1997 and "require all MPF schemes to provide guaranteed investment products so that scheme members would be given an option to choose a product that could guarantee a minimum return for their retirement benefits". The Government may make reference to the existing mode of Grant Schools Provident Fund.
Madam President, as I said in March 1998 when the Provisional Legislative Council enacted the Mandatory Provident Fund Schemes (General) Regulation, the proposal to set up a guaranteed return fund is absolutely feasible because the Government is offering grant school teachers a guaranteed return provident fund scheme. The only problem is whether the Government is willing to shoulder the responsibility.

We have emphasized for many years that relying on the MPF schemes alone cannot give a large group of retirees, prospective retirees, the disabled, housewives as well as low income people with retirement protection. Therefore, the Government must also set up an Old Age Pension Scheme in addition to the MPF schemes in order to implement a two-tier social security system.

The DAB also thinks that the MPF schemes should change from the existing employer-oriented mode to an employee-oriented mode to avoid the emergence of a large number of small balance inactive accounts as a result of the frequent job switching of employees. As the MPF payments, long service payments and severance payments are totally different in nature, the DAB strongly requests the Government to cancel the arrangement for MPF payments to offset long service payments and severance payments as soon as possible.

Madam President, I so submit.

MR NG LEUNG-SING (in Cantonese): Madam President, I have been appointed as a member of the Advisory Committee on the Mandatory Provident Fund schemes. After discussions, legislating and preparations over the years, the MPF schemes are now ready to be launched, and the regulatory authority and the industry are carrying out publicity and promotional activities. In accordance with the implementation timetable of the MPF schemes, licensing has been completed, and the vetting of applications for exemption of ORSO Schemes is in progress. On the whole, the preparations for the MPF are well underway and the monitoring authority has worked out a series of guidelines on the details of the implementation of the MPF schemes. Basically, the general public including employers and employees will be informed about the basic mode of operation of the MPF schemes and the legal obligations of various parties. I believe that the relevant publicity and promotional activities will become more and more intensive. I also believe that large scale commercial promotions by the financial sector will let employers and employees in various industries and
trades have further and deeper understandings of their participation in the MPF schemes.

After all, the implementation of the MPF schemes is something new. For smaller enterprises, especially those SMEs that have not arranged ORSO Schemes for their employees, they have to arrange for their employees to join the MPF schemes which will naturally require the input of certain management resources. If the regulatory authority and the relevant government departments intensify publicity activities targeted at these SMEs, give them more specific advice and even take the initiative to make arrangements, or co-operate with the MPF industry to organize more symposia and briefing sessions, I believe SMEs would find it more convenient and they will have less difficulties and worries when they make arrangements for the implementation of the MPF schemes. Thus, the high business management costs to be incurred at the very beginning will be reduced.

Madam President, some members of the community including colleagues of this Council have recently expressed worries that some employers who have already arranged for their employees ORSO Schemes that are more favourable than the MPF schemes may take the opportunity to transit to the MPF schemes and reduce the benefits of employees in disguised form. They think that the implementation of the MPF schemes will bring losses before gains. If the ORSO Schemes arranged by these employers are specified in the employment contracts executed between them and their employees, these ORSO Schemes are regulated by the relevant employment legislation and employers cannot unilaterally modify the employment contracts including the relevant ORSO Schemes. If the relevant ORSO Schemes are not specified in the employment contracts, regardless of whether the MPF schemes are implemented, the employers may, at any time they deemed appropriate, reduce the benefits given under the original ORSO Schemes on account of declining business. Thus, we cannot put the blame on the implementation of the MPF schemes. In addition, the Government and the relevant regulatory authority should widely publicize among the employers and employees of various industries and trades their respective rights and interests. With due respect to contractual spirit, they should jointly promote retirement protection and establish good labour relations.

In respect of the exemption of ORSO Schemes from MPF requirements, according to the implementation timetable, the relevant applications must be
made before 3 May. According to the law, even if an employer or trustee makes an application for exemption, an employee still has the right to choose to stay with the existing ORSO Schemes or join the MPF schemes, and he has sufficient statutory time to make his choice. At the same time, employers must disclose to their employees the relevant information to facilitate their choice making. Therefore, the existing provisions give employees who have joined the ORSO Schemes adequate protection and their rights and interests will not be affected by the application for exemption from MPF requirements. From the angle of good management, circumstances permitting, employers will naturally keep their employees informed of the relevant arrangements to keep up their morale and allay their fears. We should not forget that, by normal inference, the fact that these employers have already arranged ORSO Schemes for their employees proves that they lay emphasis on the retirement benefits, morale and stability of employees. Under these circumstances, it may not necessarily be bad intentions to ask the Government to make rigid provisions or issue guidelines to require the employers and trustees concerned to notify employees in writing whether they plan to apply for exemption as soon as possible. Nevertheless, it seems that this is not practical or essential.

With these remarks, Madam President, I support the original motion.

**MR CHAN WING-CHAN** (in Cantonese): Madam President, the Government has announced that it intends to implement the MPF schemes in December this year. There are only some nine months before December, but the Government's publicity still focuses only on the image of the MPF. There are not any specific educational and publicity programmes on the details of the implementation and the problems that will be encountered by employers and employees. I believe most employees and employers are still unclear about how the MPF schemes will be implemented.

In the meantime, the FTU and I have received many complaints and inquiries regarding the implementation of the MPF schemes.
A larger number of the complaints are related to employers who have implemented ORSO Schemes seeking to reduce the contributions to 5% with the implementation of the MPF schemes. As there is no precedent, many employees think that they must do so, not knowing that they have the right to choose to retain the original schemes or join the new MPF schemes. After we have explained to the complainants and after reports have been made by the media, more employees have come to understand their rights and interests.

However, on the basis of the complaints we have received recently, some employers flatly asked employees to agree to a wage reduction and transferred their responsibilities onto employees. They proposed a 5% wage reduction, equivalent to the MPF contributions. These employers have "conscience". Those employers without conscience may take the opportunity to cut the wages of employees by a greater margin. Mr LEE Cheuk-yan has said that he is worried that the second wave of wage reduction will emerge by the end of the year. In fact, some employers have already started to do so. Let me give a live example. The Eating Establishment Employees General Union and I have received a complaint. With the implementation of the MPF schemes by the Government, an employer of a catering group has recently coerced employees to agree to the following: (1) employees who have worked in the group for two years or more, no matter whether they have already worked there for three, five or 10 years, will be given long service payments at a uniform rate of 20%, and their seniority will not be counted; and (2) if the employees are dissatisfied with the above decision, they can only choose to be dismissed. As the current economic situation is still unsatisfactory and many people are unemployed, employees can only submit to humiliation and accept this silently.

Madam President, employees have to wait for 20 to 30 years before the MPF schemes can give them diminished protection. It is unexpected that the interests of workers have been impaired before the formal implementation of the MPF schemes. The FTU and I are very sorry about this.

For many years, the FTU has been fighting for retirement protection for workers with the hope that wage earners in Hong Kong will be able to live in dignity after retirement, unlike many old people today who are dependent on the Comprehensive Social Security Assistance payments or still have to work hard, yet, they live in abject poverty. Unfortunately, employers have turned protection into damaging the interests of workers, and this has actually gone against our original intentions. The ordinance is enacted to require employers
and employees to jointly make contributions and implement the MPF schemes well. However, employers have turned MPF into an excuse for wage reduction. It is not justifiable that they are not even willing to shoulder certain social responsibilities.

The total wages will reduce after the reduction and the contributions will also become relatively less, thus directly affecting the amounts of pensions in future. In many industries, employees such as workers in fast food shops and cleaners earn low incomes, so if employers have to deduct money from their meagre wages, they will even be badly off now, needless to say after retirement.

As the biggest employer and the policy executor and promoter, the Government has not fully discharged its responsibilities to promote and publicize the MPF, on the contrary, it has taken the lead to exploit employees. Various government departments are pinpointing at contract staff with weaker bargaining power by making deductions from the end-of-contract gratuities of contract staff as the employer's contributions to the MPF schemes. I do not know if the Labour Department and the MPFA will approve of this.

In fact, before government departments employ contract staff, they are fully aware that the MPF schemes will be implemented very soon and they should include the contributions as expenses in advance. Even though they have to save money and enhance productivity, they should not target at the staff as this would affect staff morale and set a bad example for private organizations.

As regards the MPF schemes of the restaurant industry, as employees are highly mobile and the structure and guild regulations in the industry are fairly complicated, the tender exercise for the MPF schemes of the industry has not yet concluded and there is not enough time for them to make preparations for the implementation of the relevant schemes. For instance, I have said time and again that if an employee of a restaurant or food establishment takes leave, he has to look for a substitute worker. In that case, is the owner of the restaurant responsible for making contributions for this substitute worker then? If it is not necessary for him to do so, who should make contributions for this substitute worker? We have not yet figured these matters out so far. When the MPF schemes are formally implemented, there will certainly be various unexpected problems. Thank you, Madam President.
PRESIDENT (in Cantonese): Mr CHAN, your time is up. Please take your seat.

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

MRS SELINA CHOW (in Cantonese): Madam President, Mrs Sophie LEUNG of the Liberal Party proposes this motion today because, as we can see, the relevant ordinance has provided for the implementation of the MPF schemes and we understand that employers and employees, especially those of SMEs, are not very clear about the implementation of the MPF schemes. Many employers and employees of SMEs basically do not have much time to understand the schemes and they lack a clear understanding of the ordinance. Therefore, with this motion, we hoped that this Council will urge the Government to make more efforts. As our objective is to assist in the successful implementation of the schemes, we should first let employers and employees fully understand the schemes so that they can make wise decisions.

But having heard the remarks made by many Honourable colleagues today, I feel very sorry about this debate. Firstly, I do not agree to what Mr LEE Cheuk-yan has done. He brought up the policy of a certain company on this MPF scheme for discussion. Certainly, I am not sure how the MPF schemes of the company will be implemented and I am not clear about all the details, and I will not defend any company or group here because that is not my job. Yet, when a responsible Member puts forward a certain case for discussion, he should not name the persons involved, especially when the group cannot defend itself or make explanations. He has cited the example and then discussed the case in a fairly biased manner which gives people a negative picture of the case. When Members debate over matters, we should not do so because we have privileges, and we ......

PRESIDENT (in Cantonese): Mr LEE, do you want to interrupt or do you have a point of order?
MR LEE CHEUK-YAN (in Cantonese): A point of order. It seems that we are not debating the motion. We are now debating the publicity on the details of the MPF schemes rather than whether I should discuss a certain case.

PRESIDENT (in Cantonese): Mrs Selina CHOW, let me explain the matter clearly to Mr LEE Cheuk-yan first and you may then continue to speak.

Mr LEE, I think that Mrs Selina CHOW has just responded to your speech. Now that your speech is a part of the debate, I think that Mrs Selina CHOW has the right to respond to it. Mrs Selina CHOW, please continue to speak.

MRS SELINA CHOW (in Cantonese): Madam President, I would like to state clearly that I do not approve of this act, and as a matter of principle, we as responsible Members should not approve of this act.

To put it bluntly, the comments just made by Mr LEE Cheuk-yan can be summarized as "trade unions may help", and he has actually stated so. We do not want to give employees a wrong impression — of course, unionist background can help employees and I fully agree to this because colleagues of unionist background have made great efforts — but I would like employees to say that this Council can help them and I would also like employers to say that this Council can help them. Certainly, employers do not want us to assume that all of them are unscrupulous employers and make them a subject of discussion. Mr LAW Chi-kwong has not said so but his amendment has implied this (laughter) — the word "avoid" implies that employers will do so, even though he has not stated this. However, Mr LEE Cheuk-yan and Mr LEUNG Yiu-chung have obviously adopted such attitudes and they have clearly conveyed the message that if employers unilaterally make decisions without consultation, what they have done has gone against the interests of employees and is not favourable to employees. I would like to point out that, as Mr NG Leung-sing has just said, we should not forget that employers who have implemented retirement or pension schemes have done so long before the legislation came into scene. This fact alone adequately proves that they are not without conscience. If they really do not have conscience, they would not have set up such schemes in the first place.
The focus of our debate today is on not how we can hit or beat these employers, but rather we should help millions of employees, tens of thousands of companies or commercial organizations properly implement the MPF schemes. We should not forget that Members have mentioned the point that thousands of schemes can apply for exemption. However, we are concerned about tens of thousands of schemes and we hope that these schemes can be properly launched when the MPF System is implemented. These tens of thousands of schemes involve millions of employees and tens of thousands of employers who are at a loss. Thus, we hope that we can help them in different ways and properly handle the schemes for millions of employees. Thus, we cannot approve of the assumption that thousands of employers may — only may — have not applied for exemption and focus on their cases. While Mr LEUNG Yiu-chung discussed guidelines, he also discussed appeals. Actually, he is not only asking for the right to information, putting it bluntly, after all, he has said "we have to see how we can oppose the employers or adopt methods that differ from theirs". As this runs counter to our basic principle, we oppose the amendment.

MISS CHAN YUEN-HAN (in Cantonese): Madam President, the motion topic today concerns the details of promoting MPF schemes. I shall say a few words from such a perspective.

The Hong Kong Federation of Trade Unions (FTU) supports the original motion and the various amendments, but it also thinks that the work of promotion will cover a wide scope. That is why while we do have reservations about some amendments, we are still prepared to support them.

Honestly speaking, the issuing of guidelines or prescribing requirements will not possibly solve the existing problem. Concerning the implementation of MPF schemes, many employees are not aware that they can actually object to any modification of their ORSO schemes by their employers. Many employees are not aware of this. When they encounter problems, they will approach us for assistance, and we will then tell them that their employers are not allowed to modify their ORSO schemes unilaterally. Actually, during the scrutiny of the relevant legislation, Secretary for Financial Services Rafael HUI and other government officials were well aware of this problem, and we spent a very long time, as much as three years, on the work of scrutiny; this problem was one of the major points of arguments. As I can still remember, at that time, officials from the Education and Manpower Bureau told us not to worry, saying that under the Employment Ordinance, when this kind of problems arose, the consent of both parties would be required before any scheme provisions could be
modified. However, if we look at the situation at all objectively, we will see that there is in fact only one party, not two parties, because many employees are unaware of their right. As pointed by Mr CHAN Wing-chan, the FTU has received many complaints — literally waves after waves of complaints, instead of one wave of complaints followed by just another wave as described by Mr LEE Cheuk-yan. Seeing that there are so many complaints, the Government has indicated that it will issue some reminders. However, can reminders work? I agree that it is a positive move to issue reminders. But simply by doing so, can we really solve this problem before the deadline on 3 May? I am afraid that the answer will be negative. I think that government officials must do something more, so as to protect the interests of the 900 000 or so employees who are covered by the various ORSO schemes. This is the only way to solve the problem.

Many employees say that in case they object to their employers' proposal to modify their ORSO schemes, they will be dismissed, as pointed out by Mr CHAN Wing chan. What are we going to do about this? Years back, when the Bill was being scrutinized, the Government told us not to worry, saying that under the Employment Ordinance, all modifications to scheme provisions would require the consent of both employers and employees. How can we ensure that this requirement is always observed? I hope that the Secretary for Financial Services and other relevant government officials who are not here today can all do something more, because today is already 15 March, and not much time is left. We have received numerous complaints about ORSO schemes being modified without the prior knowledge of employees, or about employees being forced to accept such modifications upon modification; the number of such complaints has reached very serious proportions.

Madam President, I wish to highlight the point that there are currently some 190 000 ORSO schemes in Hong Kong. Discarding those schemes operated by foreign companies, it leaves about 12 000 schemes. And, if we further disregard those schemes operated by small and medium companies with one or two employees, several thousand schemes will still be left. As I know, as at last week, just about several hundred of these schemes had actually applied to the MPFA for exemption. I do not know what the situation is now. But what about the remaining 10 000 or so schemes? This is certainly a problem. And, that is precisely why I have repeatedly urged government officials to do something more. Frankly speaking, the issuing of guidelines and prescribing requirements simply will not work. So, I now urge government officials to do something more. This is my first point. The Government must conduct more publicity in this respect.
My second point is about the recent avalanche of advertisements that give such a rosy description of MPF schemes. I feel compelled to say a few words about these advertisements. Madam President, let me first make it very clear that though my amendment has not been accepted and I have been asked to withdraw it, I basically have no objection. My amendment is basically the same as the original motion except some minor differences. However, I have agreed to accept the ruling and withdraw my amendment. Why do I still feel compelled to speak then? This is because all these advertisements say that once a person has participated in an MPF scheme, then, several decades later, he will be able to have a secured life after retirement. I think what is said in these advertisements is far from being true, for they make no mention of the point raised by the FTU repeatedly during the scrutiny process. Mr CHAN Kam-lam of the Democratic Alliance for the Betterment of Hong Kong (DAB) has just talked about guaranteed funds. Frankly speaking, if an MPF operator ever fails to attain the levels of returns guaranteed, he should not of course collect any charges. How can he possibly do so? There are also some capital preservation schemes which guarantee returns at the rate of 5% offered by savings deposit accounts. In the past, the FTU also proposed a similar scheme which guaranteed a 5% return rate offered by savings deposit accounts. But by capital preservation, we now mean to say that if we can buy a pen for $1 today, we should still be able to do so 30 years later. This in effect means protection against the effects of inflation. In Chile, there is such a scheme, but we do not have it in Hong Kong. During the scrutiny process of the Bill, we argued very hard for this because the Government rejected such a scheme.

The advertisements also say that MPF schemes can offer post-retirement security to people from all walks of life. I wish to stress that low-income people who used to earn $4,000 a month a few years ago may now be earning an even lower monthly income of $3,000. Under the MPF schemes, what will become of these people, whose investment amounts and returns are bound to be low because of their low income? I do not know what will become of them. How can they possibly have a secured retirement life? If the Government refuses to implement some comprehensive schemes such as those suggested by the FTU or the two-tier schemes mentioned by the DAB, that is, MPF schemes plus insurance schemes, I am afraid that the advertisements we see now will only mislead the wage earners.
There is another problem. During our deliberations on the Bill, we said that there was a need to introduce some industry-specific MPF schemes. At that time, the Government defined such an "industry" as one which experienced a high mobility rate, some examples being the construction and catering industries. We agreed with it entirely. At that time, we also asked the Government to introduce industry MPF schemes for other industries which had a high mobility rate such as the retail and printing industries. But the Government refused, saying that it was only prepared to introduce industry schemes for the construction and catering industries as a start. I hope that the MPFA Authority can introduce more industry schemes as soon as possible, because the retail, printing and transportation industries are employing more and more workers of high mobility rate. That is why the Government must keep abreast of such a development.

I still wish to raise one more point. I think it is very unfair to set off mandatory provident funds, long service payments and severance payments against one another. I think retirement funds, severance payments and long service payments should be handled separately. Unfortunately, my amendment has not been accepted. But I will continue to fight for this.

Also, some ORSO schemes have been modified without employees' prior consent, and some employers have told their employees that since the MPF schemes will be implemented late this year, they will have to cut their employees' wages. The industry mentioned by Mr CHAN Wing-chan is the catering industry. I now wish to add that such examples are also found in the retail industry. So, employees are actually subjected to waves and waves of negative impact. What is supposed to be a good thing has turned out to be something so bad. Should the Government turn a blind eye to this? Therefore, I hope that the Government can do something more, and this was precisely the motive behind my proposing the amendment.

Madam President, I so submit. Thank you.
DR RAYMOND HO (in Cantonese): Madam President, the MPF System that is closely related to around 300,000 employers and 3 million employees in Hong Kong will be officially implemented in December this year. However, a questionnaire survey on 500 employers conducted by a local newspaper at the end of last year shows that most employers know very little about the MPF System and around 73% of the respondents are not clear about the provisions of the Mandatory Provident Fund Schemes Ordinance. They only know that they have to make contributions when the MPF schemes are implemented. Only 31% of the respondents said that they had received information or booklets on the MPF schemes. In regard to the source of MPF information, respondents who had received such information said that the relevant information came from two of the biggest operators of traditional pension schemes: insurance companies (49%) and banks (13%), but only 12% of the respondents said that they had received MPF information provided by the Government. The findings of this survey more or less shows that the Government has given inadequate information on the system.

Although the Government publicizes the MPF schemes by means of announcements of public interests from time to time, it still needs to provide all employers and employees in Hong Kong with more details of the MPF schemes through other channels. In fact, some non-government organizations and trade unions have also published leaflets to introduce to employees the relevant schemes and the influence on them. I hope that the authority concerned can expeditiously consolidate the publicity programme on the MPF schemes so that all employers and employees in Hong Kong will have a clearer understanding of the details of the schemes to facilitate the implementation of the schemes by the end of the year.

Precisely because employees lack knowledge of the MPF schemes, there are gossips that employers will reduce contributions by different means or some companies will take the opportunity of the implementation of the MPF System to reduce employee benefits in disguised form. Certainly, these are rumours only. However, with a lack of accurate information, people will incorrectly relay erroneous messages and employees will easily become suspicious about the schemes. This will also affect the co-operation of employers and employees under the MPF schemes. Therefore, the Government should immediately make all employers and employees in Hong Kong better informed of the schemes.
Madam President, the MPF System is a new retirement protection arrangement in Hong Kong. Employers and employees generally find the MPF System very complicated in terms of the details of implementation and the choice of MPF schemes. Therefore, the Government and the authority concerned are duty-bound to intensify the relevant publicity and promotion activities so that the MPF schemes can be implemented smoothly.

I so submit. Thank you, Madam President.

MR BERNARD CHAN (in Cantonese): Madam President, I would like to declare interest first, for my company is one of the MPF service providers.

As the new century commences, the MPF schemes have immediately become a hot topic among the general public. People representing different classes and sectors express their views one after another and the community is noisily discussing the schemes. It is because the MPF schemes will officially be implemented by the end of this year and over 6 million Hong Kong people will finally have sounder retirement protection. Yet, some people still have doubts about whether we should implement the MPF schemes.

For many years, the Government has been painstakingly examining retirement protection schemes for the workforce. Undoubtedly, the MPF schemes will have far-reaching impact on the mode of savings, investment inclinations and lifestyle of every person in Hong Kong. The schemes will affect the administration and cost control of employers and have profound impacts on the structure of the financial markets.

At present, only around one third of our workforce enjoys a certain degree of retirement protection. In other words, over 2 million employees do not have any kind of retirement protection.

There was a rapid surge in the birth rate after the War and these babies are now almost 50 years old, not far from the retirement age. The fact before us is that we have an ageing population. According to the Government’s projection, in the next 50 years, people aged 65 or above will increase from 10% of the total population at present to 20%. The lifespan of people will become longer and longer which implies that the retired will need more money to support themselves.
Traditionally, most people rely on their personal savings and the support of their children after retirement. If these cannot adequately meet their daily needs, they can apply to the Government for CSSA. Last year, there were more than 234,000 CSSA recipients.

We cannot decline to admit that the assistance given to the retirees takes up a very large proportion of the welfare expenditure of the Government, and it has also become a heavy burden for taxpayers. In the year 1999-2000, the funding for social welfare and health care alone accounted for 30% of the total recurrent expenditure of the Government. Therefore, the implementation of the MPF schemes is really needed in Hong Kong to urge employees to save up for the future.

Members of the community often ask another question: Can the MPF contributions adequately support us after retirement? The analyses and calculations made by some academics and commentators have arrived at the conclusion that the contributions will not be adequate. I cannot refrain from asking this question: Is the purpose of the MPF schemes is to give full or total protection for retirement? If so, everybody will be very happy. But to achieve this purpose, employers will have to shoulder extremely heavy burdens. Realistically speaking, I do not think that the MPF schemes should substantially increase the costs to be borne by employers who have suffered a lot in the financial turmoil because this will certainly cripple the competitiveness of Hong Kong as a financial and trading centre at the end.

A wiser and more reasonable method is to regard the returns from the MPF schemes as one of the major sources of income for supporting ourselves after retirement. These returns should be supplemented by other income such as personal savings and support by children. If the above cannot adequately meet the daily expenses of the old after retirement, they can apply for other assistance. In my opinion, additional MPF contributions should be made on a voluntary basis and driven by competition in the labour market.

Some people have criticized that the service charges of the MPF schemes will make the schemes less attractive but these operational costs are absolutely necessary. The experience of the United States and Britain show that private MPF schemes are efficient and they can share the financial burdens of the Government. Everybody knows that many governments will not pay special attention to cost effectiveness as they do not take profits into consideration. Given market competition, I believe that private MPF schemes are better than government MPF schemes subsidized by taxpayers.
No system is perfect and it is most important for us to make the first step rather than wasting time on details. As we know, advertising and publicity on the MPF schemes and service providers have recently been made and I think that we are moving in the right direction in order to make the future of all employees more secure. Should we make more and louder noises in an attempt to delay the implementation of the MPF schemes, we and our next generation will ultimately become victims.

Madam President, in passing, I would like to respond to the interests in and worries about the MPF schemes as expressed by many colleagues. As a service provider, and I believe the only person in the Chamber who has passed the MPF Intermediaries Examination (before the examination, I actually knew not as much about the MPF schemes but I certainly know more than other Members after the examination), I would like to express my views. Mr LEUNG Yiu-chung has asked why employers but not employees should choose the service providers. As a few Members have said, even employers are now dazzled and they are not clear about which service providers provide better services. If employees are to make the choice, I believe it may not be possible to implement the schemes.

I believe Members have mixed up two things. We have discussed ORSO Schemes today. In fact, ORSO Schemes only affect 900,000 employees, and there are still 2 million employees who are not protected under any retirement protection schemes. We do not mean to reduce their existing retirement protection. Our focus should be put on the 2 million employees who have very little knowledge in this respect. Therefore, I support Mrs Sophie LEUNG's proposal and I hope that the Government will take more time to publicize the MPF schemes.

Thank you, Madam President.

MISS CYD HO (in Cantonese): Madam President, first of all, I really want to redress the injustice done to Mr Bernard CHAN. The book that he was reading last time, the one which you asked what he was reading, was a book on mandatory provident funds, so that is somehow related to the affairs of the Legislative Council. (Laughter)
Madam President, the topic under discussion today is about the implementation of MPFs. I think the most basic sentence in the motion is "to ensure that both employers and employees understand the schemes fully", that is, to enable the labour sector, the employees of Hong Kong, to enjoy more reasonable protection. I believe that is the key note of the motion. However, the focus of the speeches I have heard so far has been shifted to the issue of "unscrupulous employers" and others. I think that is a pity.

Recently, the Government has launched an advertisement, in which the Financial Secretary talks to a cute voice of a child. The Financial Secretary says, "I cannot put my mind at ease when the 2 million employees in Hong Kong have not got any protection for their retirement." The implementation of MPF is mentioned in the end. And that cute voice of the child says, "Uncle, you have missed something." The Government has indeed not said a lot of things in its promotion plan for the MPF.

First, the rights of the employees have not been explained. Do they have a right to choose? How are they going to bargain with the employers? Should the old schemes or the new schemes be used? If they choose the old ones and reject the new ones, then what should they do? All these are issues which have not been sufficiently explained in the Government’s publicity campaign.

Second, there are some estimates which ought to be explained to the contributors. These have indeed been mentioned by many scholars. For an employee who makes $10,000, after making 25 years of contributions, they will get $1,700 each month. To him, that is no retirement protection. If we say that after joining a MPF scheme, the employees will rely only on the MPF and there is no need for them to make any savings, then that is not true. In a family which the wife does not work, the $1,700 which they will get upon retirement is not enough. Talking about this point, I would like to say it again that the housewives in Hong Kong are not getting any pay. They do not enjoy any retirement protection, for the existing MPF system, even if it is a mandatory saving plan, can be joined by salaried people only, not housewives.
I would like to bring up the system in Japan for Members’ reference. I am not saying that we should follow it. But there is indeed something that we can take as a reference. In Japan, when a husband retires, the Government will give 50% of the pension to the wife as some kind of retirement protection to the housewife who has spent most of her life on a job which does not get any pay. There are of course some pros and cons to it. The Japanese themselves are divided on this. The bad thing about it is that women do not dare to divorce and they have to wait until they get the pension. Perhaps the many cases of murder of husbands may have been due to this. (Laughter)

As a responsible government, it has to inform the people of the inadequacies of MPF and not just the advantages. The most important thing is that, apart from joining MPF schemes, the public should continue to make savings. As a matter of fact, the people of Hong Kong have a good habit of saving. As at the end of 1999, the total savings in Hong Kong were as high as $3.1774 billion. This shows that many people who have the means will prepare for their retirement. On the contrary, those from the low-income groups may not be able to do this.

Another point is about the so-called "hot money". The Government has not brought this up for discussion. It is estimated that contributions to MPF schemes for the first year will reach $30 billion. The law provides that one third of the fund assets must be invested in the local financial markets. When there is suddenly $10 billion in the market, be it used in investment or speculation, how much inflation will it cause? What kind of impact will this have on the people? I think the Government should bring this matter up and tell the people about it.

All the recent publicity on MPF schemes conjures up a rosy picture and makes the people think a brave new world is ahead when one joins a MPF scheme. If this kind of promotion should make people refrain from making any savings, then it will be very bad indeed.

There are in fact two dimensions to an ideal retirement protection. First is old age pension, for it will meet the basic needs of the elderly who will be entitled to get it when they reach a certain age. The second is a voluntary provident fund which is aimed at enabling those employees who have the means to prepare for themselves a fuller life after retirement through participation in a MPF scheme.

Thank you, Madam President.
PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member responded)

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, you may now speak on the two amendments and the amendment to the amendment. The time limit is five minutes.

MRS SOPHIE LEUNG (in Cantonese): Madam President, the debate we have tonight is quite interesting. After listening to so many Honourable Members making their speeches, I think there is no objection to the original motion which I have proposed. The question is only whether the original motion will get a vote of support from Honourable colleagues. That is still not known. I would like to respond to the views put forward by some Honourable Members, especially those who have proposed an amendment.

Mr LAW Chi-kwong wanted to get a guarantee from the Liberal Party, that is, if we do not agree to his amendment, can we then make a guarantee that the prospects of Hong Kong will be bright. That makes me think of the story of a matchmaker going to a wedding banquet. Say this matchmaker has successfully matched a couple. In the wedding banquet, he gives his hearty congratulations to the couple, wishing them a long and happy matrimonial life. Then a thought comes suddenly to his mind, since there may be 30 to 40 years ahead of the couple, he is not sure if their marriage can last that long. So he adds, "If your marriage cannot last that long, that is not my business, because I am just a matchmaker." In the context of MPF, the Liberal Party is not a matchmaker, we can only hope that the MPF schemes can be implemented smoothly so that those some 2 million employees without any retirement protection can be protected.
As a matter of fact, the entire legislation is only some rules of a game. Madam President, of the Honourable Members who have proposed the motion and the amendments, I am the only one who is fortunate enough to have taken part in the work of the enactment of this Bill, though I may be the only one who do not have the rights and the requisites for it. As far as I know, the other Honourable Members have taken part in it or they may, like Mr LAW, have chosen not to take part in it. As for myself, I do not have the rights to take part in it since the deliberations were done in 1995. If people are not satisfied with the legislation or if they have any opinions on it, they should have raised the problems at that time when the rules of the game were set and they should have asked questions like whether any consultation was done. If we agree to the rules of the game in this Council, then if a proposal fails to win the support of Honourable Members, we should resign it to fate, for we should all know the rules of the game.

Mr LEE Cheuk-yan alluded to a charged debate. That is not something I would use. I would never say that a debate is charged because of such an amendment. However, I think that is quite interesting. I did not use that word. But that is not important.

Mrs Selina CHOW also said that the example cited by Mr LEE Cheuk-yan was inappropriate. I think we should not make any unfair criticism or attack just because of some one-sided observations. I am not saying anything in defence of a trade or a particular case. If a controlling group as an entity has acquired another company which has rules and protection different from the rest of the group, then to facilitate the staff in the group to choose the kind of work which is suitable for them or to change their jobs, it will be very convenient to the staff if they should be covered by a common provident fund scheme. That will also allay the worries of the staff. What I have said are just some of my views and they show that the employers may look at that question from a very conscientious angle. They may also adjust the salaries of the staff if they want to make the group a homogeneous whole and to impose a common system in it. Therefore, one should not make an attack simply by looking at one aspect of the problem. I hope Mr LEE Cheuk-yan can share my views.
As the legislation has already been passed, I hope Honourable Members will not make any unnecessary comments on something which has become a *fait accompli*.

Thank you, Madam President.

SECRETARY FOR FINANCIAL SERVICES (in Cantonese): Madam President, I am very grateful to Honourable Members for their views on the promotion and publicity of the Mandatory Provident Fund (MPF) schemes. This motion debate provides us with a good opportunity to listen to Members' views on the implementation of the MPF schemes and to introduce the publicity strategy and promotional activities of the Government and the Mandatory Provident Fund Schemes Authority (MPFA) for implementing the MPF schemes.

After a review of the overall progress of the preparatory work, an implementation timetable of the MPF schemes was drawn up and announced by the MPFA in March last year, making 1 December 2000 the target date of contribution. The MPFA also stated that the progress of the preparatory work will be subject to another review in the middle of this year in order to reconfirm the date of the full implementation of the MPF schemes. We also reported the implementation timetable to the Legislative Council. According to the timetable, the MPFA embarked on the licensing work, including approval of trustees and investment products, in August 1999. Submission of applications for MPF exemption commenced in January this year. In the meantime, continuous efforts were made to publicize and repeat the implementation timetable. The MPFA is currently reviewing the implementation date in accordance with the prescribed procedure. At this stage, we do not see any reason for a deferral.

MPF schemes are new to us and have far-reaching impact on all employers, employees and service providers. The most important task of the Government and the MPFA is to enable them to have knowledge of the MPF schemes and better their understanding of their rights and obligations. To this end, the Government has made the implementation of the MPF schemes as one of its major publicity campaigns in 2000. All government departments will work in concert to publicize the implementation of the MPF schemes. On the other hand, an inter-departmental co-ordinating committee on education and publicity
for the MPF schemes was set up in January this year, comprising members from the Financial Services Bureau, Labour Department, Information Services Department, Home Affairs Department, Radio Television Hong Kong, Housing Department and the MPFA. The committee has enhanced co-ordination among various government departments on the publicity front, enabling them to carry out their work more effectively.

However, effective publicity hinges on a comprehensive strategy that focuses on appropriate targets through appropriate channels at an appropriate time. Meanwhile, we must constantly review the effectiveness of the promotional and publicity initiatives and constantly modify the strategy for optimal results.

While the publicity strategy is undoubtedly important, sufficient resources are also essential. In this connection, the MPFA has specifically reserved $40 million as funding for public education and publicity for a period of 18 months.

The implementation of the MPF schemes involves different stages of work. At the initial stage, our publicity endeavours mainly targeted MPF service providers, including trustees, investment management companies, asset custodians, insurance companies, intermediaries and so on, so that they can make sufficient preparations and submit applications to the MPFA on time in accordance with the statutory requirements. Last year alone, the Chairman, Directors and staff of the MPFA attended a total of 55 seminars and talks on MPF schemes and contributed articles to newspapers with a large readership.

The advent of 2000 marked another new stage for our promotional and education endeavours. As we expect the MPF schemes to be fully implemented in December this year, our publicity targets shifted from service providers to employers, employees and self-employed persons in order to increase their knowledge of the MPF so that they will be fully prepared for the schemes. There are also certain changes to our strategy. While we will continue using last year's publicity approach, the Government and the MPFA will be fully committed to promoting the details of the MPF schemes through various channels and will actively come into contact with employers and employees, with a view to ensuring that MPF is known to all members of the community.

We will proceed in three stages.
The first stage commenced in January this year. Our objective is to put across to the public the message that the MPF schemes will definitely go ahead. Through announcements of public interest on television and radio, posters, advertisements on newspaper and magazines, television programmes, and so on, the slogan "MPF: The Fruit You Deserved" was propagated to stress that all MPF contributions by employees and their employers belong to the employees in the end.

The second stage of public education and publicity commenced in March this year. As service providers have already launched their marketing activities, we have to widely publicize the salient points of the MPF schemes, particularly making an effort to introduce the rights and obligations of employees and employers under the Mandatory Provident Fund Schemes Ordinance.

To this end, the MPFA has published an All-in-One Guidebook on MPF. Mr LEE Cheuk-yan also mentioned this publication just now. Of course, the Guidebook contains more than just cartoons and we hope that its contents will enable employers and employees to understand better the MPF Schemes. The purpose of this Guidebook is to introduce the key points of MPF schemes to employers, employees and self-employed persons by using an interesting approach and in simple terms. The Guidebook is available for public collection at District Offices and 21 service centres of the Labour Department. The MPFA will also distribute the Guidebook to 100,000 small and medium enterprises through the Labour Department. In late June, the MPFA will launch a "shop visit campaign", sending its staff to visit 60,000 shops in 18 districts throughout the territory, distribute to them the All-in-One Guidebook and introduce to employers and employees of the shops the details of MPF schemes. The MPFA hopes that through this sort of face-to-face contact, public knowledge of the MPF schemes can be enhanced.

In the two months of March and April, MPFA staff will attend meetings of the 18 District Councils to introduce the MPF schemes and answer questions. The MPFA will provide the 18 District Councils with a vote of $1.8 million to facilitate the District Councils to organize activities for promotion on MPF schemes in their respective districts.
Moreover, employers who have running occupational retirement schemes need to consider whether to apply for MPF exemption. In this connection, the MPFA has published a pamphlet explaining the interface of occupational retirement schemes and MPF schemes in order to urge employers currently operating such schemes to make a decision early. The pamphlet contains information on eligibility for exemption, application deadlines, the points that eligible employers should note, and the effects on the rights and interests of scheme members. The pamphlet was distributed to major business associations from 7 January onwards and sent to 13,000 eligible employers of occupational retirement schemes on 31 January.

Just now many Members expressed their views on the interface of occupational retirement schemes and MPF schemes. I fully appreciate Members’ concerns and I will respond to this issue in detail later on.

Given that both employers and employees have to choose the MPF schemes and investment products that best suit their own needs, they must be provided with information on the schemes and products in order to make informed choices. In this connection, the MPFA will hold a large scale exhibition in August and invite participation from all service providers of MPF schemes. The exhibition, which allows free public entry, will provide a venue where all services and information pertaining to MPF schemes can be exhibited altogether. Employers or employees can then have the opportunity to learn of all details, enabling them to make full preparation and make choices that are most suitable for them. Furthermore, the MPFA will issue a simple guide on fund investment for public reference.

The third stage of the MPFA’s publicity strategy will begin in September, which will be close to the date when the MPF schemes are expected to come into force. So, in this stage, it is necessary to remind employers and employees of their legal liabilities again. That is, the MPF schemes are mandatory so employers should select a scheme from those available in the market for their employees before the full implementation of the schemes whereas employees must decide on the choice of investment products.

Apart from making an all-out effort to carry out publicity work in the two stages that I mentioned above, strategically we will further enhance our direct communication with employers and employees. Therefore, with the assistance of the Home Affairs Department and the Labour Department, the MPFA will set
up MPF schemes inquiry counters at District Offices and service centres of the Labour Department where direct contacts are made with the public in order to address public inquiries directly.

In addition to the foregoing promotional activities, the MPFA has provided a 24-hour automated hotline and a homepage to assist in the promotion and publicity of MPF schemes. Public inquiries are expected to increase substantially in the coming months so we have started to enhance the hotline service. Employers or employees who have queries about the relevant labour legislation in relation to the implementation of the MPF schemes may call the telephone inquiry centre of the Labour Department.

As regards the homepage, 150,000 visits have been recorded since the homepage of the MPFA was launched in June last year. The MPFA is now updating its homepage to include some new information and provide information on all registered intermediaries, trustees, MPF schemes and their constituent funds for public access.

As I said earlier, a sound publicity strategy must have a mechanism for reviewing the effectiveness of promotional initiatives so that modifications can be made from time to time to achieve optimal results. For this reason, an independent market research consultant was commissioned to conduct a survey at the end of February to gauge public knowledge of the MPF schemes. It is expected that the survey report will be available in April this year. The MPFA will carry out a similar survey in the middle of this year to compare the degree of public understanding of MPF schemes. The results of these surveys will facilitate adjustments in the promotional and publicity strategy and enable us to meet the needs of the general public better in our work.

MPF schemes are one of the three pillars of old age protection. Their implementation will have a bearing on each and every citizen of Hong Kong either directly or indirectly. In respect of public education and publicity, the Government and the MPFA simply cannot shirk their responsibilities but our efforts alone will not be sufficient. To the mass public, MPF schemes represent a brand new concept and the needs of every employee or employer are unique. While we will try our best to get in touch with every employee, self-employed person and employer through various channels, our strength is nevertheless limited. Therefore, we must mobilize participation from the community as a whole so that employers and employees can have more knowledge of MPF and
understand their rights and obligations in order to select the scheme or investment product that meet their unique needs. The Government and the MPFA will work towards this objective in their future promotional and education endeavours, sparing no effort to co-operate with employers' and employees' organizations in order to make full use of the wide networks of these organizations. We will work in concert to the effect that the message of MPF which has a far-reaching effect on each and every one of us will filter through the community.

Just now a number of Honourable Members highlighted the need to come into contact with representative bodies as early as possible for promotion, education and publicity purposes. I fully agree with them and I hope that a closer co-operation relationship will be established in future. In fact, we are more than willing to participate in activities organized by labour organizations or employers' associations to promote the MPF schemes. To achieve our common goal, the MPFA will make every effort to co-operate with these organizations and associations. If necessary, the MPFA can actively consider providing resources for these organizations and associations to organize such promotional activities.

Certainly, employers and employees may try to understand matters relating to the MPF more actively by paying attention to and collecting relevant information and taking an initiative to inquire of the MPFA or the Labour Department their rights and interests. Members of the existing occupational retirement schemes may also ask their employers what they plan to do to deal with the interface of their schemes and MPF schemes, for instance, whether their employers will apply for MPF exemption.

Now I wish to turn to the proposals relating to the application for MPF exemption by occupational retirement schemes. Just now many Members spoke of the interface of occupational retirement schemes and MPF schemes. Members are concerned that employers may pare down the existing retirement benefits for employees on the pretext of implementing the MPF system. Mr LEE Cheuk-yan proposed an amendment urging the Government to "require" the employers and trustees of the existing occupational retirement schemes to inform the employees in writing as soon as possible whether they plan to apply for MPF exemption. Mr LEUNG Yiu-chung proposed an amendment to replace the word "require" by "issue guidelines".
We fully appreciate Members' concerns. In late February, the Secretary for Education and Manpower and I were here to explain to Members what we had done in this regard. Here, I wish to recapitulate the point that the occupational retirement schemes currently sponsored by employers are purely voluntary in order to attract quality staff and boost production efficiency. When there are changes in the cost structure in times of economic restructuring, different industries will adopt varying contingency measures. Under such circumstances, to link the reduction of employees' benefits with the implementation of the MPF schemes is, indeed, somewhat unfair to the MPF schemes.

Anyhow, let me give an account of what have been done by the Government and the MPFA in this regard.

On 31 January, a letter from the MPFA was sent to employers operating occupational retirement schemes, informing them of the procedure and timetable for submitting application for MPF exemption and urging them to submit their application as early as possible. At the meeting of the Task Force on Employment on 25 February, the Financial Secretary discussed with representatives of employers and employees the responsibilities of all parties concerned in the implementation of the MPF schemes.

Moreover, in late February the Commissioner for Labour sent a letter to employers operating occupational retirement schemes as well as various major employers' associations, reminding employers of the relevant provisions of the Employment Ordinance and the Occupational Retirement Schemes Ordinance to ensure that employers will not unilaterally and arbitrarily make changes to the terms of employment without employees' consent. In his letter, the Commissioner for Labour also stressed that both employers and employees must take an open attitude to discuss together the interface of MPF schemes and occupational retirement schemes and matters incidental to the transition.

On the other hand, the MPFA plans to send another round of letter to employers who operate occupational retirement schemes in mid-March to remind them of the 3 May deadline for application for MPF exemption. The MPFA will also emphasize in the letter the need for communication between employers and employees on the interface arrangements. As soon as a decision is taken on these arrangements, the employer should inform the employees in writing as soon as possible whether or not he will apply to the MPFA for exemption in order to protect the employees' right to information.
All these show that we have done quite a lot in terms of publicity and advice. We will continue to watch the developments closely. Mr LEE Cheuk-yan and Mr LEUNG Yiu-chung respectively called on the Government to require or issue guidelines appealing to employers and trustees of the existing occupational retirement schemes to inform the employees in writing whether they plan to apply for exemption. First, I wish to point out that in order to provide for a particular act, we must be empowered by the law to do so. Neither the Occupational Retirement Schemes Ordinance nor the Mandatory Provident Fund Schemes Ordinance has conferred on the Government or the MPFA the power to do so. Moreover, being the statutory body responsible for enforcing the Occupational Retirement Schemes Ordinance and the Mandatory Provident Fund Schemes Ordinance, the MPFA has sought legal advice to ascertain whether the Authority has the power to issue such guidelines and under what circumstances it can do so. The Mandatory Provident Fund Schemes Ordinance provided in express terms that the MPFA may issue guidelines only under certain specified circumstances and such guidelines can be invoked in legal proceedings. However, it is not provided in the Ordinance that the MPFA may issue guidelines under the circumstances mentioned by Mr LEUNG. Given that the law does not empower the Government or the MPFA to issue such guidelines, we are sorry that we cannot accede to Mr LEUNG's request.

Nevertheless, we will be very willing to issue documents of an advisory nature. Tonight, I have listened to the views of many Members. Soon I will ask the MPFA to approach each trustee of an occupational retirement scheme in its capacity as the administrator of occupational retirement schemes, reminding the trustees that they must respect the right to information of their clients, namely, the employers. I will also ask the MPFA, the body in charge of occupational retirement schemes, to get in touch with the employers of companies of a larger scale to explain to them the statutory requirements, urging them to protect the employees' right to information as far as possible for a harmonious employment relationship. These are what I can do. Legally, we cannot issue guidelines, but administratively, we can do more than what we are doing now. The MPFA staff on the public gallery today should have listened clearly to what I have said.
Lastly, Madam President, the policy concept, coverage and implementation details of the MPF schemes have been repeatedly discussed since the early 1990s. I think our discussion today has gone far beyond the policy concept. The challenges ahead of us are how these brand new schemes can be implemented effectively, and how to make the 300,000 employers, the 2 million-odd employees who are not under any form of retirement protection as well as other self-employed persons understand their rights and obligations well, so that they can make choices that suit their needs in preparation for their retirement. Given that the MPF schemes are entirely new to us and there is no sure-win formula in publicity and public education, it can be said that we are actually "groping for stones to cross the river" by working hard on the one hand and making modifications on the other. Therefore, the views expressed by Honourable Members today on the implementation of the MPF schemes are most welcome and I thank them for their input. This debate provides us with an opportunity to draw on collective wisdom and enables us to know more clearly how our work in publicity and public education can be improved. The Government and the MPFA would certainly be happy to listen to any views that Honourable Members or others may have in future on the implementation of the MPF schemes. Although we may not be able to accede to every request, or fully take on board their views, I believe these views will be constructive and will make us understand the problems involved more thoroughly, thus enabling the MPFA to operate in a better way.

Thank you.

PRESIDENT (in Cantonese): I now call upon Mr LAW Chi-kwong to move his amendment to the motion.

MR LAW CHI-KWONG (in Cantonese): Madam President, I move that Mrs Sophie LEUNG's motion be amended, as set out on the Agenda.

Mr LAW Chi-kwong moved the following amendment: (Translation)

"To delete "in order to protect their interests" and substitute with "and to prevent employers from cutting back the salaries and benefits of their employees through the implementation of the schemes"; to add "take positive measures to encourage employers to retain the existing
occupational retirement schemes that are more favourable than the statutory requirements, publicize and educate the public about the respective rights and interests of employees and employers under the Mandatory Provident Fund Schemes Ordinance, and," after "the authorities concerned to"; to delete "and make full efforts to promote and publicize the schemes for their" and substitute with "so as to facilitate the"; and to add "of the schemes and provide more reasonable safeguards for employees" after "smooth implementation".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr LAW Chi-kwong to Mrs Sophie LEUNG's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LAW Chi-kwong rose to claim a division.

PRESIDENT (in Cantonese): Mr LAW Chi-kwong has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.
Functional Constituencies:

Mr LEE Kai-ming, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Wing-chen, Mr SIN Chung-kai, Mr WONG Yung-kan and Mr LAW Chi-kwong voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah, Mr TAM Yiu-chung and Mr YEUNG Yiu-chung voted for the amendment.

Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing and Mr Ambrose LAU voted against the amendment.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, seven were in favour of the amendment and 17 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 19 were present, 14 were in favour of the amendment and four against it. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.
DR LEONG CHE-HUNG (in Cantonese): In accordance with Rule 49(4) of the Rules of Procedure, I move that in the event of further divisions being claimed in respect of the motion moved by Mrs Sophie LEUNG or any amendments thereto, the Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr LEONG Che-hung be passed. Does any Member wish to speak?

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion moved by Mrs Sophie LEUNG or any amendments thereto, or any amendments to the amendments, the Council do proceed to such divisions immediately after the division bell has been rung for one minute.
PRESIDENT (in Cantonese): We have dealt with the amendment moved by Mr LAW Chi-kwong. Mr LEE Cheuk-yan, you may now move your amendment.

MR LEE CHEUK-YAN (in Cantonese): Madam President, I move that Mrs Sophie LEUNG's motion be amended, as set out on the Agenda.

Mr LEE Cheuk-yan moved the following amendment: (Translation)

"To add "; besides, as the employers of the existing registered occupational retirement schemes may apply to the Mandatory Provident Fund Schemes Authority for exemption from the schemes by 3 May this year, this Council urges the Government to require the employers and trustees concerned to inform the employees in writing as soon as possible whether they plan to apply for exemption, so as to protect the employees' right to information" after "their smooth implementation"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment moved by Mr LEE Cheuk-yan to Mrs Sophie LEUNG's motion, be passed.

I now call upon Mr LEUNG Yiu-chung to move his amendment to Mr LEE Cheuk-yan's amendment.

MR LEUNG YIU-CHUNG (in Cantonese): Madam President, I move that Mr LEE Cheuk-yan's revised amendment be amended, as set out on the Agenda.

Mr LEUNG Yiu-chung moved the following amendment to Mr LEE Cheuk-yan's amendment: (Translation)

"To delete "require" and substitute with "issue guidelines appealing for"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEUNG Yiu-chung to Mr LEE Cheuk-yan's amendment, be passed.
PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LEUNG Yiu-chung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Yiu-chung has claimed a division. The division bell will ring for one minute.

MR LAW CHI-KWONG (in Cantonese): Madam President, I would like to make use of this one minute to ask a question. In moving his amendment just now, Mr LEUNG Yiu-chung read out the word "revised" which should not be there because the amendment has not been revised.

PRESIDENT (in Cantonese): Mr LAW, the word is unnecessary. The word "revised" means if the amendment moved by you is passed, he will move his revised amendment. However, as a matter of fact, the amendment which you have moved has been negatived, so the word "revised" should not have been read out.

MR LAW CHI-KWONG (in Cantonese): But Mr LEUNG did mention the word in moving his amendment.

PRESIDENT (in Cantonese): You think that Mr LEUNG mentioned the word in moving his amendment, but I did not mention the word when I proposed the question to Honourable Members. Therefore, the motion which you have voted on does not have this word. (Laughter)
PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr LEE Kai-ming, Mr CHEUNG Man-kwong, Mr CHAN Kwok-keung, Mr CHAN Wing-CHAN, Mr SIN Chung-kai, Mr WONG Yung-kan and Mr LAW Chi-kwong voted for the amendment.

Mr Kenneth TING, Mr James TIEN, Mr Edward HO, Dr Raymond HO, Mr Eric LI, Dr LUI Ming-wah, Mrs Selina CHOW, Mr HUI Cheung-ching, Mr Bernard CHAN, Dr LEONG Che-hung, Mrs Sophie LEUNG, Dr Philip WONG, Mr Howard YOUNG, Mr LAU Wong-fat, Mrs Miriam LAU, Mr FUNG Chi-kin and Dr TANG Siu-tong voted against the amendment.

Geographical Constituencies and Election Committee:

Miss Cyd HO, Mr Albert HO, Mr LEE Wing-tat, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Miss CHAN Yuen-han, Mr LEUNG Yiu-chung, Mr Gary CHENG, Mr Jasper TSANG, Dr YEUNG Sum, Mr LAU Kong-wah and Mr YEUNG Yiu-chung voted for the amendment.

Mr David CHU, Mr HO Sai-chu, Mr NG Leung-sing and Mr Ambrose LAU voted against the amendment.

Mr TAM Yiu-chung abstained.

THE PRESIDENT, Mrs Rita FAN, did not cast any vote.
THE PRESIDENT announced that among the Members returned by functional constituencies, 24 were present, seven were in favour of the amendment and 17 against it; while among the Members returned by geographical constituencies through direct elections and by the Election Committee, 19 were present, 13 were in favour of the amendment, four against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, she therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr LEE Cheuk-yan to Mrs Sophie LEUNG’s motion, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

PRESIDENT (in Cantonese): I think the question is not agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the amendment negatived.

PRESIDENT (in Cantonese): Mrs Sophie LEUNG, you may now speak in reply. You still have five minutes and 20 seconds.

MRS SOPHIE LEUNG (in Cantonese): Madam President, thank you for making it clear to Honourable Members which motion or amendment we are discussing.
I am grateful to many Honourable Members who have spent so much time to discuss this motion out of their good will for those 2 million employees who are yet to be protected by any retirement protection scheme. I am also grateful to all of the Honourable Members who have spoken on the motion. As the time now is 30 minutes past 10 o'clock, I shall be brief so that all of us can go home early.

It can be said that I am a native of Hong Kong, though as a matter of fact, when I first arrived here I was almost nine years old. It was then that I learned to speak Cantonese in the kindergarten. I grew up in Hong Kong and I have worked here for many years. I used to be a wage earner. I work as an employer now. Whatever I do, I am doing it for the good of the future of Hong Kong. It is my wish that there will be harmonious labour relations in Hong Kong, that they can serve as a model for the rest of the world. But sad to say, I have encountered some unnecessary setbacks even as I propose this motion out of good will. Or it can be said that there is some smell of gunpowder as Mr LEE Cheuk-yan has said, in the harmonious labour relations which I wish to achieve. I wish to extend my apology here to the numerous "scrupulous" employers, especially those of the small and medium sized enterprises. It is because of what I have done that they are criticized again and labelled as "unscrupulous" employers.

Why am I speaking in defence of these employers of small and medium sized enterprises? It is because many of them, like the representatives of the labour sector here, have done much for the working class. I have met many of these employers. I myself started as an employer of three persons. I had to do everything myself. Then why have they become employers? Many of them used to be wage earners and they have not just saved money but also accumulated much experience, so much so that they feel they can bear the responsibilities of being an employer and create more employment opportunities for Hong Kong. And so they have fallen into the trap of being an employer. Now they are called time and again by some people as "unscrupulous" employers. I wish to redress the injustice done to them. I would like to appeal to Honourable Members again not to call them "unscrupulous" employers.

Thank you, Madam President.
PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mrs Sophie LEUNG, as set out on the Agenda, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Member raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections and by the Election Committee, who are present. I declare the motion passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 2.30 pm on Wednesday, 29 March 2000.

Adjourned accordingly at twenty-five minutes to Eleven o'clock.
WRITTEN ANSWER

Translation of written answer by the Secretary for Economic Services to Mr David CHU's supplementary question to Question 4

The Government has considered the proposal on the Shenzhen-Hong Kong Western Corridor project in the "Crosslanes Further Study" and is actively discussing this proposal with the mainland authorities concerned through the Hong Kong/Mainland Major Infrastructure Co-ordination Committee.
WRITTEN ANSWER

Translation of written answer by the Secretary for Economic Services to Mrs Miriam LAU's supplementary question to Question 4

The Government decided in December 1996 that the freight part of the West Rail (that is, Port Rail Line (PRL)) should be constructed later for the following reasons:

(a) the uncertainties in the cross-boundary freight forecast and the complexity of the freight operation of cargo transport as mentioned by the Kowloon-Canton Railway Corporation in its proposal; and

(b) the substantial land resumption and clearance costs involved.

The PRL is being reviewed under the Second Railway Development Study (RDS-2). If implemented, it will provide a direct cross-boundary freight rail connection from Lo Wu to a new port rail terminal located in the backup area of the Kwai Chung ports. There are two route options which could be either via West Rail from Kam Tin to Kwai Chung or via East Rail and then a new tunnel from Tai Wai to Kwai Chung.

In evaluating the PRL, the RDS-2 will forecast the transport demands taking into account the different cargo growth and port choices for the South China region and the deep hinterland of the Mainland under a possible range of growth scenarios. The extent to which the PRL can capture the Kwai Chung ports' cargo from/to these two areas in competition with the container traffic will then be assessed. Since the construction of the PRL depends to a large extent on its commercial viability, the RDS-2 will evaluate the cost-effectiveness of the construction and operation of the PRL based on the forecast demands. Moreover, the RDS-2 will also look into how best the PRL can help to relieve the road networks, so as to alleviate the associated impact on the environment. As regards freight rails linking the Shenzhen ports, experience shows that there is a need for an integrated operation and a partnership relationship between the rails and the ports. The RDS-2 will certainly take into account this useful experience in assessing the PRL where applicable to the local condition of Hong Kong.

The RDS-2 is expected to be completed some time in mid-2000. By then, we should have a clearer picture about the way forward regarding the PRL.
Amendments to be moved by the Secretary for Financial Services

Clause | Amendment Proposed
--- | ---
2 | (a) By deleting the definitions of "agent" and "audit".
   | (b) In the definition of "financial accommodation", by adding "a" before "discounted" and "guarantee" respectively.
   | (c) In the definition of "securities collateral" -
      | (i) in paragraph (b), by adding "or" at the end;
      | (ii) by adding -
      | "(c) for the purpose of section 81A only, with the dealer as security for a purpose other than the provision of financial accommodation;".
   | (d) In the definition of "securities margin financier's representative", in paragraph (a), by deleting "an employee or agent of" and substituting "a person in the employment of, or acting for or by arrangement with,".
   | (e) By adding -
      | ""group of companies" (公司集團) has the meaning assigned to it by section 2(1) of the Companies Ordinance (Cap. 32);
Clause 3 (a) By deleting the proposed section 121B(2) and (3) and substituting -

"(2) Subject to subsection (3), this Part does not apply to any of the activities listed in Schedule 4, and a person who carries on such activities and no other securities margin financing, need not be registered as a securities margin financier.

(3) Where a person carries on a business of securities margin financing to which this Part applies and, in addition, carries on any of the activities listed in Schedule 4, then this Part applies to such other activities.

"margin ratio" (保證金比率), in relation to each description of securities collateral, means the percentage of the value of such collateral up to which a client is generally permitted to borrow (or otherwise secure other forms of financial accommodation) from a securities dealer or securities margin financier against that particular description of securities collateral;

"margin value" (保證金價值), in relation to each description of securities collateral, means the maximum amount of money which a client is generally permitted to borrow (or otherwise secure other forms of financial accommodation) from a securities dealer or securities margin financier against that particular description of securities collateral;".
Clause Amendment Proposed

(4) The Commission may, by notice in the Gazette, add to, delete from or modify any of the provisions in Schedule 4."

(b) In the proposed section 121C -

(i) in subsection (1) -

(A) by deleting "A" and substituting "Subject to section 121B(2), a";

(B) by adding ", in Hong Kong" after "must not";

(ii) in subsection (2)(a) -

(A) by deleting "$200,000" and substituting "$1,000,000";

(B) by deleting "2 years" and substituting "5 years";

(iii) in subsection (2)(b), by deleting "level 5" and substituting "level 6";

(iv) by deleting subsection (3) and substituting -

"(3) Where a person provides financial accommodation and reasonably believes that it is not to be used to facilitate the acquisition of securities listed on a stock exchange or the continued holding of such securities, the person providing the financial accommodation does not contravene this section.".
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<tr>
<th>Clause</th>
<th>Amendment Proposed</th>
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<tbody>
<tr>
<td>(c)</td>
<td>In the proposed section 121D -</td>
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<tr>
<td>(i)</td>
<td>in subsection (1) -</td>
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<tr>
<td>(A)</td>
<td>by adding &quot;, in Hong Kong&quot; after &quot;must not&quot;;</td>
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<tr>
<td>(B)</td>
<td>in paragraph (b), by deleting &quot;prepared to act as&quot;;</td>
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<tr>
<td>(ii)</td>
<td>by deleting subsection (3).</td>
</tr>
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<td>(d)</td>
<td>In the proposed section 121E(1)(b) -</td>
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<tr>
<td>(i)</td>
<td>by deleting &quot;company&quot; and substituting &quot;person&quot;;</td>
</tr>
<tr>
<td>(ii)</td>
<td>by adding &quot;, except business that is necessarily incidental to carrying on such business&quot; after &quot;financing&quot;.</td>
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<td>(e)</td>
<td>In the proposed section 121F -</td>
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<td>(i)</td>
<td>by deleting subsection (3) and substituting -</td>
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<td>&quot;(3) An applicant must furnish to the Commission, at the time of the application, such information as may reasonably be required by the Commission -</td>
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<td>(a)</td>
<td>regarding the services which, if the application is allowed, the applicant will hold himself out as being able to provide; and</td>
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<td>Clause</td>
<td>Amendment Proposed</td>
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<td>(b)</td>
<td>regarding the business which the applicant proposes to carry on and to which the application relates, or relating to any person whom the applicant intends or proposes to employ in such business or any person with whom the applicant intends to be associated in the course of carrying on such business; and</td>
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<td>(c)</td>
<td>to enable the Commission to take into account any matter relating to -</td>
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<tr>
<td>(i)</td>
<td>any person who is or is to be employed by, or associated with, the applicant for the purposes of the proposed business to which the application relates; and</td>
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<td>(ii)</td>
<td>any person who will be acting as a representative in relation to such business; and</td>
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<td>Clause</td>
<td>Amendment Proposed</td>
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<td>(iii)</td>
<td>any substantial shareholder, director or officer of the applicant, any other company in the same group of companies as the applicant or to any director or officer of any such other company.</td>
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<td>(ii)</td>
<td>in subsection (4), by deleting &quot;and is liable on conviction on indictment to imprisonment for 5 years.&quot; and substituting -</td>
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<td>&quot;and is liable -</td>
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<td></td>
<td>(a) on conviction on indictment, to a fine of $1,000,000 and to imprisonment for 5 years; or</td>
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<td>(b) on summary conviction, to a fine at level 6 and to imprisonment for 6 months.&quot;</td>
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<td>(f)</td>
<td>By deleting the proposed section 121G(2)(a).</td>
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<td>(g)</td>
<td>In the proposed section 121H -</td>
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<tr>
<td>(i)</td>
<td>by deleting subsection (2)(a);</td>
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<tr>
<td>(ii)</td>
<td>by deleting subsection (5) and substituting -</td>
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</table>
Clause | Amendment Proposed

"(5) For the purposes of this section, the Commission may take into account any relevant information in its possession whether provided by the applicant or by some other person.".

(h) In the proposed section 121J(3), by adding ", and the Commission must provide reasons for its decision when requested to do so" after "heard".

(i) In the proposed section 121R(2)(h), by deleting "(whether convicted of the contravention or not)".

(j) In the proposed section 121S -

   (i) in subsection (1) -
   
   (A) in paragraph (b)(ii), by deleting the full stop at the end and substituting "; or";
   
   (B) by adding -
   
   "(c) whether any of the circumstances referred to in section 121R(2) has occurred in respect of a particular registered financier.";

   (ii) in subsection (4), by deleting "impose a penalty under this section" and substituting "take any action under subsection (3)".

(k) In the proposed section 121U(4), by deleting "impose a penalty under this section" and substituting "take any action under subsection (3)".
Clause | Amendment Proposed

(l) In the proposed section 121V(3) and (4), by deleting "cancel" and substituting "revoke".

(m) In the proposed section 121W(1) and (2), by deleting "impose any other penalty on" and substituting "take any other action against".

(n) By adding -

"121WA. Additional powers of Commission for direction of registered financier or registered financier's representative

(1) In addition to the powers under sections 121R, 121S, 121T and 121U, the Commission may issue a direction to a registered financier or registered financier's representative to limit its or his business operations in a manner specified in the direction, including, without limiting this section, for the purpose of -

(a) closing down the operations in connection with a revocation of registration; or

(b) carrying on only essential operations for the protection of client's interests during a period of suspension of registration."
Clause

Amendment Proposed

(2) Where a direction is issued under this section to a person in connection with revocation of registration or suspension of registration and that person carries on business operations in accordance with such a direction, he is deemed not to contravene section 121C or 121D, as the case may be.

(3) A securities margin financier who carries on business operations contrary to a direction issued to it under this section commits an offence and is liable -

(a) on conviction on indictment, to a fine of $1,000,000 and to imprisonment for 5 years; or

(b) on summary conviction, to a fine at level 6 and to imprisonment for 6 months.

(4) A financier's representative who without reasonable excuse acts in a manner contrary to a direction issued to him under this section commits an offence and is liable on conviction to a fine at level 4."

(o) In the proposed section 121Y -

(i) in subsection (1)(d) -

(A) by deleting "terms on which financial accommodation is provided" and substituting "amount of financial accommodation being provided, or the terms on which it is provided,";
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<th>Clause</th>
<th>Amendment Proposed</th>
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<tr>
<td>(B)</td>
<td>by adding &quot;(except as a result of interest charged by the financier)&quot; after &quot;debit&quot;;</td>
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<tr>
<td>(ii)</td>
<td>in subsection (2), by deleting &quot;give&quot; and substituting &quot;provide&quot;;</td>
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<tr>
<td>(iii)</td>
<td>in subsection (3) -</td>
</tr>
<tr>
<td>(A)</td>
<td>in paragraph (d), by adding &quot;together with the interest rate and basis of the interest calculation thereon&quot; after &quot;the accommodation&quot;;</td>
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<td>(B)</td>
<td>in paragraph (h), by adding &quot;initiated&quot; after &quot;all disposals&quot;;</td>
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<tr>
<td>(iv)</td>
<td>by deleting subsection (4)(b) and substituting -</td>
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<td></td>
<td>&quot;(b) provide the statement to the client, unless there is no transaction in the account over the relevant period and the account does not have any outstanding balance and holding of securities collateral during the relevant period.&quot;;</td>
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<tr>
<td>(v)</td>
<td>in subsection (5)(h), by adding &quot;initiated&quot; after &quot;all disposals&quot;;</td>
</tr>
<tr>
<td>(vi)</td>
<td>in subsection (6), by adding &quot;without reasonable excuse&quot; after &quot;who&quot;.</td>
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<tr>
<td>(p)</td>
<td>In the proposed section 121Z(3)(a), by deleting &quot;2 years&quot; and substituting &quot;3 months&quot;.</td>
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Clause

Amendment Proposed

(q) In the proposed section 121AA -

(i) in subsection (1) -

(A) by deleting "As" and substituting "Subject to subsection (4), as";

(B) by adding -

"(aa) registered in the name of the financier or a nominee controlled by the financier; or";

(C) in paragraph (b) -

(I) by deleting "financial";

(II) by deleting "; or" at the end and substituting a full stop;

(D) by deleting paragraph (c);

(ii) in subsection (2), by deleting "the safe custody of documents" and substituting "such safe custody";

(iii) in subsection (3) -

(A) by adding "take reasonable steps to" after "must";

(B) by deleting everything from "This" to "transaction.";
Clause | Amendment Proposed
--- | ---
(iv) | in subsection (4)(a), by deleting "financial" after "authorized";
(v) | in subsection (5), by adding ", other than one given by the client authorizing disposition of securities under subsection (4)(b) or (c) where the client is in default under the relevant securities margin financing agreement and fails to rectify such default when requested to do so" after "subsection (4)";
(vi) | in subsection (7) -
   (A) | in paragraph (a), by adding "and to imprisonment for 2 years" after "$200,000";
   (B) | in paragraph (b), by deleting "5" and substituting "6";
(vii) | by adding -
"(9) For the avoidance of doubt, subsection (3) shall not be construed as requiring the registered financier to ensure that the relevant securities are not redeposited, transferred, lent, pledged, or repledged or otherwise dealt with by an authorized institution or a registered dealer with whom the financier has deposited the relevant securities in accordance with subsection (4).".
(r) | In the proposed section 121AB -
(i) | in subsection (4), by deleting everything from "For" to "-" and substituting -
Clause

Amendment Proposed

"Where the Commission reasonably believes that a registered financier cannot comply with the financial resources rules, it may, for the purpose of ascertaining whether or not such compliance is taking place -";

(ii) in subsection (6) -

(A) by deleting "4" and substituting "6";

(B) by deleting "$250" and substituting "$1,000".

(s) By deleting Division 4 and substituting -

"Division 4 - Agreements with unregistered financiers

121AC. Application and interpretation of this Division

(1) In this Division, "agreement" (協議) means an agreement the making or performance of which constitutes, or is part of, the business activity of securities margin financing.

(2) This Division applies to agreements entered into after the commencement of this Division by unregistered securities margin financiers with their clients in connection with the business of securities margin financing carried on by those financiers.
Clause Amendment Proposed

(3) A reference in this Division to an unregistered securities margin financier is a reference to a securities margin financier -

(a) who is not registered under Division 2; or

(b) whose registration under that Division is suspended or revoked,

but does not include a reference to a person who does not contravene section 121C because of the operation of section 121WA(2), 121BH(1) or 121BI.

121AD. Agreements made by unregistered persons

(1) Subject to subsection (2) and section 121AE(2), an agreement made by an unregistered securities margin financier ("the provider") in the course of carrying on a business of securities margin financing in contravention of section 121C is unenforceable against the other party ("the purchaser").

(2) Where a securities margin financier has had its registration suspended, nothing in subsection (1) shall make unenforceable against the purchaser those parts of an agreement that was entered into before such suspension relating to -
Clause | Amendment Proposed
--- | ---
(a) | the payment of fees and charges including interest on loans outstanding;
(b) | the calculation of margin value;
(c) | the calculation of margin ratio;
(d) | the provision of securities collateral;
(e) | the making of margin calls; or
(f) | the disposal of securities collateral.
(3) The purchaser is entitled to recover -
(a) | any money paid or other property transferred or otherwise parted with by him under the agreement; and
(b) | compensation for any loss sustained by him as a result of the provider being unregistered, provided that the purchaser did not, at the time such loss arose, know that the provider was unregistered.
(4) For the purposes of subsection (3)(b), compensation shall only be recoverable for loss that is -

(a) a direct result of the provider being unregistered; and

(b) within the reasonable contemplation of the parties at the time the agreement was entered into.

(5) For the purposes of subsection (3) -

(a) the amount of money or other property; and

(b) the amount of compensation,

that the purchaser is entitled to recover is -

(i) such amount or property, or combination thereof, as the parties agree to; or

(ii) on the application of either party, such amount or property, or combination thereof, as the Court considers just and equitable and on such additional terms as the Court may impose.
Clause Amendment Proposed

(6) If the purchaser does not perform the agreement, the provider may apply to the Court for the repayment of any money and the return of any property received by the purchaser under the agreement, and the Court may make such order on such terms as it considers just and equitable.

121AE. Agreements made unenforceable by section 121AD

(1) This section applies to an agreement which is unenforceable because of section 121AD.

(2) If, on the application of either party, the Court is satisfied that the enforcement conditions are met, it may, subject to such modification as it considers just and equitable, allow -

(a) the agreement to be enforced; or

(b) all or part of the money paid and property transferred under the agreement to be retained,

or a combination thereof.

(3) The enforcement conditions are -

(a) that it is just and equitable for the agreement to be enforced or for all or part of the money paid or property transferred under the agreement to be
Clause Amendment Proposed

retained, or a combination thereof; and

(b) where the applicant is -

(i) the provider, that he honestly and reasonably believed that he was not contravening section 121C by making the agreement; or

(ii) the purchaser, that he did not, at the time the money was paid or other property was transferred or otherwise parted with, know that the provider was unregistered.

(4) If property transferred under the agreement has passed to a third party, a reference in section 121AD or this section to that property is to be read as a reference to its value at the time of its transfer under the agreement."

(t) In the proposed section 121AK(4), by deleting "2" and substituting "3".

(u) In the proposed section 121AS(1) -
<table>
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<th>Clause</th>
<th>Amendment Proposed</th>
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<tbody>
<tr>
<td>(i)</td>
<td>by deleting &quot;(and without intent to defraud)&quot;;</td>
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<tr>
<td>(ii)</td>
<td>by deleting &quot;3&quot; and substituting &quot;5&quot;.</td>
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<td>(v)</td>
<td>In the proposed section 121AT -</td>
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<tr>
<td>(i)</td>
<td>in subsection (1), by adding &quot;, but such auditor may be the same auditor as the one appointed for the purposes of the Companies Ordinance (Cap. 32)&quot; after &quot;records&quot;;</td>
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<tr>
<td>(ii)</td>
<td>by deleting subsection (3) and substituting -</td>
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<tr>
<td>&quot;(3)&quot;</td>
<td>A person who -</td>
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<td>(a)</td>
<td>is an employee of the financier; or</td>
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<tr>
<td>(b)</td>
<td>is an officer of the financier; or</td>
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<tr>
<td>(c)</td>
<td>is an employee of a person referred to in paragraph (a) or (b); or</td>
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<tr>
<td>(d)</td>
<td>belongs to any other class of persons prescribed by Commission rules,</td>
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<td>is ineligible for appointment under this section.&quot;</td>
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(w) In the proposed section 121AY -

   (i) in subsection (1), by adding "examine," before "audit";

   (ii) in subsection (2), by deleting "section" and substituting "Division".

(x) In the proposed section 121AZ -

   (i) in subsection (1), by adding "examine," before "audit";

   (ii) in subsection (5)(c), by adding "examined," before "audited".

(y) In the proposed section 121BA, by adding "examination and" before "audit" where it twice appears.

(z) In the proposed section 121BB -

   (i) in subsection (1) -

      (A) by deleting "to audit" and substituting "to examine and audit";

      (B) by deleting "the audit" and substituting "the examination and audit";

      (C) in paragraph (b), by deleting "the audit" and substituting "the examination and audit";

   (ii) in subsection (2), by adding "examination and" before "audit".
Clause Amendment Proposed

(za) By deleting the proposed section 121BC and substituting -

"121BC. Auditor and auditor's employees may disclose information in certain circumstances

Notwithstanding section 59(1) of the Securities and Futures Commission Ordinance (Cap. 24), an auditor appointed under this Division and any employee of such auditor may disclose information that comes to his knowledge in the course of performing his duties as such auditor or as an employee of such auditor (as the case may be) -

(a) for the purpose of carrying into effect, or complying with, any of the provisions of this Ordinance; and

(b) for the purposes of any legal proceedings; and

(c) to the Commission; and

(d) in the case of an employee of an auditor, to the auditor."

(zb) By deleting the proposed section 121BD(3) to (7) and substituting -

"(3) A registered financier or any of its officers, employees or agents or any auditor appointed by a financier must answer all questions relevant to an examination and audit which are put to him by an auditor appointed under this Division or a person authorized under section 121BB(2)."
(4) Any person mentioned in subsection (1) or (2) who, without reasonable excuse, fails to comply with any request made to him under the relevant subsection, or any person mentioned in subsection (3) who, without reasonable excuse, refuses or fails to answer any question put to him under that subsection, is guilty of an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years."

(zc) In the proposed section 121BE -

(i) by adding "examination and" before "audit";

(ii) by deleting "5" and substituting "6".

(zd) In the proposed section 121BF -

(i) by adding "examination and" before "audit";

(ii) by deleting "5" and substituting "6".

(ze) In the proposed section 121BG -

(i) by deleting subsections (3) and (4) and substituting -

"(3) The Commission must not waive or modify a requirement of a prescribed provision unless it appears to the Commission that -"
### Clause 5292

<table>
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<th>Amendment Proposed</th>
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<td>(a) compliance with the requirement in question would be unduly burdensome for the applicant having regard to the benefit which compliance would confer on the investing public; and</td>
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<td>(b) the exercise of this power in the particular case is not contrary to the interest of the investing public.</td>
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</table>

(4) On granting an application made under this section, the Commission must give written notification of its decision to the applicant.

(4A) Where the Commission -

| (a) refuses the application made under this section in whole or in part; or |
| (b) imposes conditions on granting the application, |
Clause | Amendment Proposed
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it must notify the applicant in writing of its decision and the reasons for making such decision.”;

(ii) in subsection (7)(a), by adding "121D," after "121C,".

(zf) In the proposed section 121BH(4), by deleting everything after "offence" and substituting -

"and is liable -

(a) on conviction on indictment, to a fine of $1,000,000 and to imprisonment for 5 years; or

(b) on summary conviction, to a fine at level 6 and to imprisonment for 6 months.”.

(zg) By adding -

"121BI. Certain unregistered persons to be permitted to carry on limited business

A person who -

(a) immediately before the commencement of this Part, carried on a business of securities margin financing; and

(b) continues to collect interest accrued or accruing on sums already advanced under financial accommodation granted before the commencement of this Part,
Clause

Amendment Proposed

is deemed not to be carrying on a business of securities margin financing for the purpose of section 121C, but only if the person does not carry on, or hold itself out as carrying on, any other securities margin financing.".

New

By adding -

"3A. Schedule 4 added

The following is added -

"SCHEDULE 4  [s. 121B]

KINDS OF ACTIVITIES EXEMPTED
FROM PART XA

1. The provision of financial accommodation by a registered or exempt dealer in order to facilitate acquisitions or holdings of securities by the dealer for the dealer's clients.

2. The provision of financial accommodation by a mutual fund corporation in order to finance investment in any of the corporation's mutual funds.

3. The provision of financial accommodation by an authorized institution for the purpose of facilitating acquisitions or holdings of securities by the institution's clients.

4. Securities margin financing that is or forms part of a stock borrowing, or a stock return, as defined by section 19(16) of the Stamp Duty Ordinance (Cap. 117), or any transaction in securities similar to such a borrowing or return.
Clause | Amendment Proposed
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5. | The provision of financial accommodation that forms part of an arrangement to underwrite or sub-underwrite securities.
6. | The provision of financial accommodation to facilitate an acquisition of securities in accordance with the terms of a prospectus, regardless of whether the offer of securities is made in Hong Kong or elsewhere.
7. | The provision of financial accommodation by a company to its directors or employees to facilitate acquisitions or holdings of its own securities.
8. | The provision of financial accommodation to a registered financier, a registered or an exempt dealer or an authorized institution to facilitate acquisitions or holdings of securities.
9. | The provision of financial accommodation by a member of a group of companies to another member of the group to facilitate acquisitions or holdings of securities by that other member.
10. | The provision of financial accommodation by an individual to a company in which he holds 10% or more of its issued share capital to facilitate acquisitions or holdings of securities.

Schedule 1, item 1
(a) In paragraph (c), in the definition of "dealer", by deleting the proposed paragraph (d) and substituting -

"(d) a registered financier, if the only dealings in securities are -"
(i) entering into agreements with a person (or the act of offering to enter into an agreement, or inducing or attempting to induce a person to enter into or offer to enter into an agreement) for or with a view to that person acquiring securities, provided these agreements or acts are made solely for the purpose of providing financial accommodation as a registered financier to that person; or

(ii) disposals of securities collateral held for a client -

(A) in settlement of the client's obligation to maintain an agreed level of margin; or

(B) in settlement of the client's liabilities to repay or discharge financial accommodation provided by the financier;".

(b) In paragraph (i), in the proposed definition of "authorized financial institution" -

(i) by deleting "financial";

(ii) by deleting "財務".
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<th>Clause</th>
<th>Amendment Proposed</th>
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<tr>
<td>Schedule 1</td>
<td>By adding -</td>
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<tr>
<td>&quot;19A. Section 75 (3)</td>
<td>Add &quot;without reasonable excuse&quot; after &quot;who&quot;. &quot;</td>
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Schedule 1, item 20 In the proposed section 75A -

(a) in subsection (1)(d) -

(i) by deleting "terms on which financial accommodation is provided" and substituting "amount of financial accommodation, or the terms on which it is provided,";

(ii) by adding "(except as a result of interest charged by the dealer)" after "debit";

(b) in subsection (2), by deleting "give" and substituting "provide";

(c) in subsection (3) -

(i) in paragraph (d), by adding "together with the interest rate and basis of the interest calculation thereon" after "the accommodation";

(ii) in paragraph (h), by adding "initiated" after "all disposals";

(d) in subsection (4) -

(i) by deleting "A" and substituting "Subject to subsection (4A), a";
Clause | Amendment Proposed
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(ii) | by deleting "give" and substituting "provide";
(e) | by adding -
"(4A) Where there is no transaction in the account over the relevant period and the account does not have any outstanding balance and holding of securities collateral during the relevant period, a dealer need not provide a statement of account under subsection (4).";
(f) | in subsection (5)(h), by adding "initiated" after "all disposals".

Schedule 1, item 22 | In the proposed section 77(4)(a), by deleting "2 years" and substituting "3 months".

Schedule 1, item 25 | In the proposed section 81 -
(a) | by deleting subsection (2) and substituting -
"(2) Subject to subsection (4B), where securities which are not the property of the dealer and for which the dealer, or any nominee controlled by the dealer, is accountable are held for safe custody in Hong Kong, the dealer must ensure that the securities are either -

(a) | registered in the name of the person to whom the dealer is accountable or in the name of the nominee; or
Clause | Amendment Proposed
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(b) | deposited in safe custody in a designated account with an authorized institution or some other institution approved by the Commission for the purposes of this section; ";
(b) | in subsection (3), by deleting "the safe custody of documents" and substituting "such safe custody";
(c) | in subsection (4) -
(i) | by adding "take reasonable steps to" after "must";
(ii) | by repealing everything from "This" to "transaction.";
(d) | by adding -
"(4A) Subsection (4) does not affect the right of a dealer to whom subsection (2) applies to dispose of the securities referred to in subsection (2) for the purpose of settling any liability owed by the person (who is the beneficial owner of such securities) to the dealer for -
(a) | dealing in securities which remains after the dealer has disposed of all other assets designated as collateral for securing the settlement of that liability; or
Amendment Proposed

(b) financial accommodation provided by the dealer to the person which remains after the dealer has disposed of all other assets designated as collateral for securing the settlement of that liability, but only with the written authority of the person or as permitted by Commission rules.

(4B) A dealer to whom subsection (2) applies may lend or deposit the securities referred to in that subsection to a person -

(a) in accordance with the rules and regulations of the Unified Exchange; or

(b) in accordance with the rules and regulations of the Hong Kong Securities Clearing Company Limited; or

(c) of a class specified in Commission rules for the purposes of this section,

but only with the written authority of the client or as permitted by Commission rules.

(4C) An authority referred to in subsection (4B) is effective only if it specifies the period for which it is current and it -
Clause | Amendment Proposed
--- | ---
(a) remains in force for the period so specified or 12 months, whichever is the shorter; and
(b) may be renewed in writing for one or more further periods not exceeding 12 months at any one time;"
(e) in subsection (6)(b), by deleting "5" and substituting "6";
(f) by adding -
"(8) For the avoidance of doubt, subsection (4) shall not be construed as requiring the dealer to ensure that the relevant securities are not redeposited, transferred, relent, pledged, or repledged or otherwise dealt with by a person to whom the dealer has lent or deposited the relevant securities in accordance with subsection (4B).".

Schedule 1, item 25
In the proposed section 81A -
(a) in subsection (2) -
(i) by deleting "As" and substituting "Subject to subsection (5), as";
(ii) by deleting "either";
(iii) by adding -
Clause | Amendment Proposed
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 | "(aa) registered in the name of the dealer or a nominee controlled by the dealer; or";
 | (iv) in paragraph (b), by deleting "financial";
 | (b) in subsection (3), by deleting "the safe custody of documents" and substituting "such safe custody";
 | (c) in subsection (4) -
 | (i) by adding "take reasonable steps to" after "must";
 | (ii) by deleting everything from "This" to "transaction.";
 | (d) by adding -
 | "(4A) Subsection (4) does not affect the right of a dealer to dispose of the securities collateral of a client in settlement of -
 | (a) the client’s obligation to maintain an agreed level of margin; or
 | (b) any liability of the client to repay or discharge the financial accommodation provided by the dealer; or
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<td>(c) any liability of the client to settle a transaction in securities against which liability securities collateral has been provided by that client; or</td>
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<td></td>
<td>(d) any liability owed by the client to the dealer for dealing in securities which remains after the dealer has disposed of all other assets designated as collateral for securing the settlement of that liability, but only with the written authority of the person or as permitted by Commission rules.&quot;;</td>
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<td>(e) in subsection (5) -</td>
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<td>(i) in paragraph (a), by deleting &quot;financial&quot; after &quot;authorized&quot;;</td>
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<td>(ii) by deleting paragraphs (b) and (c);</td>
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<td>(f) in subsection (8)(b), by deleting &quot;5&quot; and substituting &quot;6&quot;;</td>
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<td>(g) by adding -</td>
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<td>&quot;(9) For the avoidance of doubt, subsection (4) shall not be construed as requiring the dealer to ensure that the relevant securities are not redeposited, transferred, relent, pledged, or repledged or otherwise dealt with by an authorized institution, the Hong Kong Securities Clearing Company Limited, the SEHK Options Clearing House</td>
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<td>Limited, or any other person, with whom the dealer has lent or deposited the relevant securities in accordance with subsection (5).&quot;.</td>
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<td>Schedule 1, item 27</td>
<td>In paragraph (b), by deleting the proposed subparagraph (viii) and substituting -</td>
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<td>&quot;(viii) all securities margin financing conducted by the dealer; and&quot;.</td>
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<tr>
<td>Schedule 1, item 32</td>
<td>By deleting paragraph (b).</td>
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<tr>
<td>Schedule 1, item 33</td>
<td>By deleting paragraphs (a) and (d).</td>
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<tr>
<td>Schedule 1, item 34</td>
<td>By deleting the item.</td>
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<tr>
<td>Schedule 1, item 35</td>
<td>By deleting paragraphs (a) and (c).</td>
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<tr>
<td>Schedule 1, item 36</td>
<td>By deleting the item and substituting -</td>
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<td></td>
<td>&quot;36. Section 94 Repeal and substitute -</td>
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<td>&quot;94. Auditor and auditor's employees may disclose information in certain circumstances&quot;</td>
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</table>
Notwithstanding section 59(1) of the Securities and Futures Commission Ordinance (Cap. 24), an auditor appointed under section 90 or 91 and any employee of such auditor may disclose information that comes to his knowledge in the course of performing his duties as such auditor or as an employee of such auditor (as the case may be) -

(a) for the purpose of carrying into effect, or complying with, any of the provisions of this Ordinance; and

(b) for the purposes of any legal proceedings; and

(c) to the Commission; and

(d) in the case of an employee of an auditor, to the auditor.".".
Schedule 1, item 37

By deleting paragraphs (b) and (c).

Schedule 1, item 38

By deleting paragraph (a).

Schedule 2

By adding -

"6A. Section 29(3) Repeal paragraph (b) and substitute -"

"(b) the exercise of this power in the particular case is not contrary to the interest of the investing public."."

Schedule 2, item 7

By deleting the proposed section 29AA(4)(a) and (b) and substituting -

"(a) compliance with the financial resources rules or the specified provision of those rules would be unduly burdensome for the person or class of persons having regard to the benefit which compliance would confer on the investing public; and

(b) the exercise of this power in the particular case is not contrary to the interest of the investing public."."
Clause | Amendment Proposed
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Schedule 2, item 12 | By deleting the item and substituting -

"12. Section 55A (a) In subsection (1)(b), repeal "81(1)" and substitute "81(2) and (4), 81A(2) and (4)".

(b) Repeal subsection (2)(a) and (b) and substitute -

"(a) to whether compliance with the requirement in question would be unduly burdensome for the person having regard to the benefit which compliance would confer on the investing public; and

(b) to whether the exercise of this power in the particular case is not contrary to the interest of the investing public.".".
Clause | Amendment Proposed
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Schedule 3 | By adding before item 1 -  
"1A. Banking Ordinance (Cap. 155) |
In section 3(1), add - |
"(ja) a person who is a registered financier within the meaning of the Securities Ordinance (Cap. 333), where section 121AM of that Ordinance applies to such a deposit;"."

Schedule 4 | By deleting section 1.  
Schedule 4 | By deleting section 3 and substituting -  
"3. Restrictions on disposition of securities by dealer  
(1) Section 81 of the Securities Ordinance (Cap. 333) (as substituted by item 25 of Schedule 1) applies to securities held for safe custody by a dealer, or a nominee controlled by the dealer, for the account of a client of the dealer immediately before the commencement of that item.  
(2) If, immediately before the commencement of item 25 of Schedule 1, a dealer, with the written authority of the person to whom the dealer is accountable, has -  
(a) deposited any securities, for which the dealer is accountable, as security for loans or advances made to the dealer; or
Clause Amendment Proposed

(b) lent or parted with the possession of such securities for any other purpose,

such written authority shall remain in force for 3 months after the commencement of that item, or such shorter period as may be specified in such authority, and a dealer does not contravene section 81A of the Securities Ordinance (Cap. 333) (as added by item 25 of Schedule 1) during such period when acting in accordance with such authority.".
**Annex IV**

**EDUCATION (AMENDMENT) BILL 1999**

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Education and Manpower

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<td>2</td>
<td>In the proposed definitions of &quot;practical school&quot;, &quot;skills opportunity school&quot; and &quot;special school&quot;, by deleting &quot;for that purpose&quot; and substituting &quot;for such purpose&quot;.</td>
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<tr>
<td>4(b)</td>
<td>In the proposed section 52(3), by deleting &quot;being&quot; and substituting &quot;continuing to be&quot;.</td>
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<td>6(b)</td>
<td>In the proposed section 56(2), by deleting &quot;being&quot; and substituting &quot;continuing to be&quot;.</td>
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<td>7</td>
<td>(a) By deleting the proposed section 58A and substituting -</td>
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"58A. Prohibition against employment of persons of specified age as teachers or principals of aided schools

(1) Subject to subsection (2) -

(a) a person shall not be employed as a teacher or the principal of an aided school if he -
Clause

Amendment Proposed

(i) would commence such employment after the commencement of this section; and

(ii) would be aged 60 years or more at the commencement of such employment;

(b) a person employed as a teacher or the principal of an aided school shall not continue to be so employed for a school year or any part thereof if he has attained the age of 60 years or more before the commencement of the school year, except in accordance with a permission under section 58B(2)(a).

(2) Nothing in subsection (1) applies to -

(a) the employment of a person as a temporary replacement of a teacher of an aided school for any period during which that teacher is unable for any reason to perform his duties as a teacher of the school; or

(b) the employment of a person as a teacher of an aided school where the person fills a post that is not within the teaching staff establishment of the school approved by the Director from time to time.". 
Clause | Amendment Proposed
---|---
(b) In the proposed section 58B(1) -

(i) in paragraph (a), by deleting "being employed as a teacher or the principal of the school by virtue of section 58A(2)" and substituting "continuing to be so employed by virtue of section 58A(1)(b)";

(ii) in paragraph (b), by deleting "the period in which he is to continue to be employed" and substituting "the period concerned".

(c) In the proposed section 58C, by adding "the first anniversary of "before "the commencement of this section".