OPEN AGENDA

Copy No:

No: 47/2019

Memorandum for Executive Council

SUBJECT **Currency (Amendment) Bill 2019**

Memorandum by the Financial Secretary

ADVICE SOUGHT

1. **Executive Council is asked to consider and advise whether the attached Currency (Amendment) Bill, 2019 (Annex A) should be printed, published and presented as Government Business at the next formal meeting of Legislative Council to be held in December 2019.**

BACKGROUND & CONSIDERATIONS

2. Executive Council is asked to consider the attached Currency (Amendment) Bill 2019 to address two issues in relation to the treatment of surpluses and deficits on the Currency Fund.

3. In response to a recommendation from the Chief Auditor as part of the Currency Fund audit for the financial year 2017/18, the Commissioners of Currency proposed an amendment to the Currency Ordinance 1975 regarding the treatment of a deficit that may occur in a particular financial year.

4. In relation to the distribution of any surplus to the Currency Fund and the General Reserve, section 16 of the Currency Ordinance currently provides that: "*There is to be a General Reserve of the Fund (hereinafter referred to as the "General Reserve") to which must be allocated any amounts that become available by virtue of section 17."*

5. The Commissioners of Currency observed that the Currency Ordinance 1975 only provides detail on the calculation and distribution of a surplus on the Currency Fund (section 17 and 18 of the Principle Ordinance) – however there are no provisions as to how to cover any deficit that may arise.

6. The current presumption is that the deficit is carried as a retained deficit until such time that subsequent surpluses extinguish any retained deficit but this treatment does not have specific statutory backing in the Ordinance itself and therefore it is proposed that an additional provision be added in the Currency Ordinance to address this matter that: if at the end of the financial year, the calculation in accordance with section 18 results in a deficit, the deficit of the Fund shall be met from the General Reserve.

7. The Currency Fund for the last two financial years made surpluses and

it is not anticipated that this will change for the current financial year either. However we need to ensure that appropriate legislative provision exists in the event that a deficit materialises in future years.

8. In addition to the above proposed amendment the Commissioners of Currency have also identified a further change necessary to ensure effective financial management of the Currency Fund in relation to the distribution of any surplus generated in the year.

9. The application of the process outlined in the Currency Ordinance under section 17 on the distribution of the surplus of the Fund means that the entire surplus in a financial year must be transferred to the General Revenue of SHG. This means that the surplus of the Fund cannot be used to build the Reserves of the Currency Fund to build resilience and sustainability within the Fund. This is due to the fact that on the last day of the financial year an accurate position cannot be determined on which to apply the distribution formulae under section 17.

10. It is also recognised that the provisions under section 17(d) of the Ordinance holds a level of ambiguity in terms of whether the Commissioners, with the approval of the Governor, can make a transfer from the General Reserve to the General Revenues of SHG. Though this section implies that a transfer is possible, this section actually deals with the distribution of a surplus at the end of a financial year rather than the distribution of the General Reserve.

11. The Commissioners of Currency propose that the distribution of any surplus at the end of the financial year should follow the following order of precedent outlined in paragraph 12 below and that the allocation of amounts from the General Reserve should be a separate provision under the Ordinance rather than under section 17.

12. The order of precedent should be as follows going forward:

    a. Firstly, as currently provided the surplus should first be allocated to cover any shortfall if the General Reserve is less than 10% of demand liabilities.
    b. Secondly, the surplus should then after any allocation under (a) above be applied to redeem on behalf of SHG any securities which were issued under section 20(1), which is where SHG is required to balance the Fund if total assets are less than total liabilities.
    c. Lastly, any surplus remaining after applying (a) and (b) above should be distributed to the General Reserve of the Fund.

13. It is also proposed that the current step under section 17(d) be removed from this section and be included separately under section 16 of the Ordinance that establishes the General Reserve of the Currency Fund.

14. This solution will ensure that the Commissioners are able to allocate as much of any surplus generated in the year to build the General Reserve and build financial resilience and security for the Fund rather than the surplus having to be allocated to the General Revenue of SHG. Secondly, this solution will give the Commissioners the ability to contribute to the General Revenue of SHG, if it is deemed equitable to do so with the approval of the Governor, through a clear and unambiguous process.

15. The Commissioners of Currency fully support these proposed changes.

FINANCIAL IMPLICATIONS

16. There are no financial implications resulting from this decision. This is a procedural amendment to the Currency Ordinance.

17. The proposals above provide that any surplus generated by the Currency Fund at the end of the financial year can be distributed to build the Currency Fund Reserve. This improves the resilience of the Fund.

ECONOMIC IMPLICATIONS

18. This is a procedural change and therefore there are no economic implications.

CONSISTENCY WITH INVESTMENT POLICY PRINCIPLES

19. N/A

PUBLIC / SOCIAL IMPACT

20. This is a procedural change and therefore there are no public or social impacts.

ENVIRONMENTAL IMPACT

21. This is a procedural change and therefore there are no environmental implications.

PREVIOUS CONSULTATION / COMMITTEE INPUT

22. The Commissioners of Currency who are responsible for the security and management of the Currency Fund have recommended this change to the legislation.

23. The Public Accounts Committee have supported the Chief Auditor's recommendation made in relation to the changes to the treatment of deficits on the Fund.

24. The Economic Development Committee has also endorsed the proposed changes.

PUBLIC REACTION

25. As this is a procedural change proposed to the Currency Ordinance it is not anticipated that there will be any significant public reaction.

PUBLICITY	26. It is proposed that this should be reported in the ExCo Report following the meeting and will be published as part of the legislative process before the formal Legislative Council meeting in December 2019.
SUPPORT TO STRATEGIC OBJECTIVES	27. This paper supports the National Goal "Altogether Wealthier". It also supports the "Effective, efficient and accountable Public Sector" goal and Strategic Objective 6.1 Ensure effective governance through efficient and effective systems and processes.
LINK TO SUSTAINABLE ECONOMIC DEVELOMENT PLAN GOALS	28. N/A
OPEN /CLOSED AGENDA ITEM	29. This paper is recommended for the open session.

DLR

Corporate Services
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