

LCQ6: Environmental, social and governance performance of listed companies

Following is a question by the Hon Mrs Regina Ip and a reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (June 26):

Question:

In recent years, investors have attached an increasing importance to the performance of enterprises in the "environmental, social and governance" (ESG) aspects. It has been reported that MSCI and S&P Global Ratings have respectively introduced ESG Rating and ESG Evaluation, and have included ESG criteria in assessing enterprises' credit worthiness. In this connection, will the Government inform this Council:

(1) whether it will urge the relevant institutions to expeditiously introduce ESG indices or ESG evaluations of listed companies, so as to keep up with the global trend; if so, of the details; if not, the reasons for that;

(2) of the specific measures in place to encourage listed companies to enhance their ESG performance, and to verify how credible the ESG information disclosed by listed companies is; and

(3) whether it will request the regulatory bodies to reprimand those listed companies with persistently poor ESG performance and take actions against them; if so, of the details; if not, the reasons for that?

Reply:

President,

In recent years, enterprises and investors around the world have attached increasing importance to enterprises' standards on environmental protection, social responsibility and corporate governance (hereafter referred to as "ESG"). They acknowledge that they should properly address the enterprises' risks and opportunities in these aspects in order to enhance their overall operation and performance.

As an international financial centre, Hong Kong has always closely followed the development of the international standards and requirements on the enterprises' ESG aspects. We are committed to encouraging enterprises to enhance their work in these aspects and expect to elevate the level of their work in these aspects through setting relevant disclosure requirements on ESG aspects for listed companies. Among them, the Stock Exchange of Hong Kong (SEHK) published the Environmental, Social and Governance Reporting Guide

(ESG Reporting Guide) as early as in 2013 to provide a reporting framework for listed companies and to require them to report on their work in the ESG aspects annually. The SEHK has been reviewing and revising the ESG Reporting Guide from time to time over the past few years in light of market development in order to enhance the level of ESG reports of the listed companies.

In May this year, the SEHK published a consultation paper on the review of the ESG Reporting Guide and the relevant Listing Rules, and proposed further enhancement to the ESG reporting obligations of listed companies. In addition, the Securities and Futures Commission announced its Strategic Framework for Green Finance in September 2018 to explore more diversified green investment opportunities by enhancing the consistency and comparability of the environmental information disclosed by listed companies.

Our response to the three parts of the question is as follows:

(1) As more and more investors are attaching importance to the performance of listed companies in the ESG aspects, we understand that index compilers and rating agencies around the world have launched evaluation indices in these aspects. In Hong Kong, Hang Seng Indexes Company has launched the Hang Seng Corporate Sustainability Index Series since July 2010 and launched the HSI ESG Index on May 14, 2019. The HSI ESG Index makes reference to the results of the Hong Kong Quality Assurance Agency's (HKQAA) sustainability rating of listed companies to determine their index weighting. It helps provide investors with a benchmark and facilitates them to invest in listed companies with good ESG performance. The HKQAA's sustainability rating for listed companies is measured by making reference to the company's performance in seven core subjects, including corporate governance, environment, community involvement and development, consumer issues, etc. Every assessed eligible company will receive a score (0 to 100) and rating (D to AAA) to reflect its overall performance.

The Government will continue to require listed companies to make more comprehensive disclosures in the ESG aspects through the requirements as imposed by the SEHK to allow investors and other institutions to have a more objective and accurate basis to assess the performance of listed companies in these aspects.

(2) The SEHK has been pursuing the objective of enhancing the performance of listed companies in the ESG aspects by requiring them to disclose the extent of their work. The consultation paper published by the SEHK just in May also continues to encourage and require listed companies to improve their performance in these aspects along the same direction.

The Listing Rules require listed companies to ensure the accuracy of the information they disclose (including the ESG reports). Otherwise, the relevant listed companies will be regarded as having breached the general disclosure obligation of the Listing Rules and may be subject to disciplinary actions such as public reprimand, suspension of trading, delisting, etc. The SEHK will conduct spot check on the listed companies' ESG Reports to

understand the compliance situation of the listed companies. It will also publish reports to provide guidance on the areas that the companies have fallen short of the requirements. In addition, the SEHK also proposed in the consultation paper published in May this year to amend the ESG Reporting Guide to encourage listed companies to seek independent verification of their ESG Reports with a view to enhancing the credibility of the ESG information disclosed.

In addition to compiling the ESG Reporting Guide, the SEHK provides e-training to listed companies to help them understand the role of the company's leadership in ESG work, the importance of ESG Reports, ways to prepare proper reports, etc. This will help listed companies improve their ESG work.

(3) The Listing Rules require listed companies to publish ESG Reports in accordance with the requirements in the ESG Reporting Guide. Under the current system, the SEHK and the regulators will not penalise the listed companies in respect of their performance under the subject areas and the key performance indicators of the ESG Reporting Guide. However, listed companies must ensure the accuracy of the information stated in the report. Otherwise, they will be regarded as having breached the general disclosure obligation of the Listing Rules and may be subject to the relevant disciplinary actions (such as public reprimand, suspension of trading, delisting, etc.) We understand that overseas markets currently do not have mechanism to reprimand listed companies for their poor performance in their ESG work. Investors can base on the information disclosed by listed companies and make reference to the ratings as provided by the relevant rating agencies or index compilers to make their investment decisions.

Thank you President.

Effective Exchange Rate Index

The effective exchange rate index for the Hong Kong dollar on Wednesday, June 26, 2019 is 104.9 (up 0.1 against yesterday's index).

LCQ2: Granting of asylum by Germany to two bail jumpers

Following is a question by the Hon Michael Tien and a reply by the

Secretary for Security, Mr John Lee, in the Legislative Council today (June 26):

Question:

In December 2017, two men who had been charged with rioting offences and admitted to bail pending trial failed to attend the trial, and the court therefore issued warrants of arrest against them. It was reported last month that they had been granted asylum by the German authorities in May last year. In this connection, will the Government inform this Council:

(1) whether, before the two persons were granted asylum by the German authorities, the Government had received requests from the German authorities for information about the offences in which they were involved for the purpose of assessing their asylum requests; whether a mechanism is in place for the Government to seek a review by the German authorities of their decision to grant asylum;

(2) when the Government came to know that the two persons had been granted asylum; apart from the Chief Executive conveying to Germany's Acting Consul General in Hong Kong strong objection to the granting of asylum, of the specific follow-up actions that have been and will be taken by the Government in this regard; and

(3) whether, according to the surrender of fugitive offenders agreement signed between the governments of Hong Kong and Germany, the offences allegedly committed by the two persons are offences for which surrender may be granted?

Reply:

President:

The two absconders who had jumped bail mentioned in the question were involved in the Mong Kok riot which took place in the small hours of February 9, 2016. The Mong Kok riot was a serious large-scale incident of mob violence. On the day, many rioters attacked police officers with bricks dug out from the pavement, home-made weapons and various kinds of hard objects, set fires at various locations and damaged police vehicles, wounded others and destroyed public property. Such violent acts seriously jeopardised public order and safety. Over 100 persons were injured in the incident, including over 80 police officers, as well as members of the media, unsettling many people in Hong Kong. After the incident, the Government of the Hong Kong Special Administrative Region (HKSAR) as well as various sectors of society strongly condemned the acts of the rioters.

As at May 31, 2019, the Police arrested a total of 91 persons in connection with the Mong Kok riot. The Department of Justice has also prosecuted some arrestees of the alleged offences, including riot, incitement to riot, arson, unlawful assembly, incitement to unlawful assembly and assaulting police officers. The judicial proceedings of certain persons

concerned are still on-going. So far, 30 persons have been convicted by the court, of which 23 persons were convicted of riot and were sentenced to training centre order or imprisonment ranging from three to seven years.

The two absconders who had jumped bail mentioned in the question were charged with serious charges, including "riot" and "assaulting police officer", in relation to the Mong Kok riot. The acts were in contravention of section 19 of the Public Order Ordinance (Cap 245) concerning the offence of riot with a maximum penalty of imprisonment for 10 years, and section 36 of the Offences against the Person Ordinance (Cap 212) concerning the offence of "assaulting any police officer in the due execution of his duty" with a penalty of imprisonment for two years. The two persons were originally scheduled to appear before the High Court on December 9, 2017 for a pre-trial review, but they did not attend the hearing and jumped court bail. The court issued an arrest warrant on the day, requesting the Police to track down the absconders and apprehend them.

My reply to the various parts of the question is as follows:

(1) The case mentioned in the question is a criminal litigation case. Generally speaking, the Police are responsible for case investigation, gathering of evidence and making arrests, while the Department of Justice will study and determine whether to prosecute and to prosecute with what charge, and make independent decisions. In the case mentioned in the question, the Hong Kong Police and the Department of Justice have never received any request for information from the German authorities. The HKSAR Government is disappointed that no basic assessment on or verification of the facts had been conducted by the German authorities. The Chief Executive in her meeting with Germany's Acting Consul General in Hong Kong on May 24 had expressed the HKSAR's strong objections and deep regrets.

(2) According to the Criminal Procedure Ordinance (Cap 221), a person admitted to bail who, without reasonable cause, fails to surrender to custody as shall have been appointed by a court, commits an offence. The person is liable on summary conviction to a fine of \$75 000 and to imprisonment for six months, and on conviction upon indictment to a fine of any amount and to imprisonment for 12 months. The court may issue an arrest warrant against the defendant. The Police will execute the arrest warrant and spare no efforts in tracking down the whereabouts of the suspect, with a view to bringing the suspect to court for handling as appropriate, including pursuing the legal liability of his jumping court bail, and continuing to handle the original case.

With regard to the two bail jumpers mentioned in the question, since the issuance of arrest warrant by the court upon their failure to appear before the court in December 2017, the Police have been following up to locate the whereabouts of the persons, including making enquiries with the law enforcement agencies of multiple related countries through the police co-operation mechanism of INTERPOL. Upon learning about the report of the German authorities granting asylum, the Police have again asked the German police to provide information through the INTERPOL mechanism. As regards the specific

content of the case, since details of investigation and pursuit of the bail jumpers are involved, it is not appropriate to be made public.

Besides, the Police and the Department of Justice are studying the case and will follow up in accordance with the relevant laws and evidence. The Police will continue to, by all possible means, pursue the two absconders who have jumped court bail against whom arrest warrants have been issued.

As mentioned before, upon learning about the media reports of the captioned case, the HKSAR Government has publicly expressed its strong objections and deep regrets. The HKSAR Government considers the granting of asylum to persons who had committed serious crimes and jumped court bail and absconded whilst awaiting trial, without any basic assessment or verifications of facts, lacks objective evidential basis, and unjustifiably undermines Hong Kong's international reputation in the rule of law and judicial independence. The Chief Executive has personally and categorically indicated her strong objections and deep regrets to Germany's Acting Consul General in Hong Kong.

(3) According to the "Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Federal Republic of Germany for the Surrender of Fugitive Offenders", there are 46 offences for which surrender may be granted. The first 45 offences are descriptions of specific offences, while the 46th offence is "any other offence for which surrender may be granted in accordance with the laws of both Parties".

According to the Fugitive Offenders Ordinance (Cap 503), the crime for which surrender may be granted must comply with the "double criminality" principle, i.e. it must constitute an offence in the jurisdictions of both the requesting party and the requested party.

In determining whether an offence is an offence punishable under the laws of both the party requesting the surrender and the requested party, the totality of the alleged acts or omissions of the person of whom surrender is sought shall be taken into account before reaching a decision, regardless of whether, under the laws of the parties, the constituent elements of the offence or the definition of the offence are the same. Simply put, the "double criminality" principle is decided based on the "act". Whether or not surrender may be granted over the act or omission depends on whether the act or omission itself also constitutes a criminal offence in Hong Kong and complies with the requirements in section 2(2)(b) of the Fugitive Offenders Ordinance; otherwise, it is not an offence for which surrender may be granted. The offence of jumping bail itself is not an offence for which surrender may be granted under the Agreement.

Hong Kong's rule of law and independent judicial system are the core values of our society, and have long been held in high regard by the international community. According to the World Economic Forum's Global Competitiveness Report, Hong Kong is ranked first in Asia for judicial independence. According to Article 82 of the Basic Law, the power of final

adjudication of the HKSAR shall be vested in the Court of Final Appeal. The Court of Final Appeal may as required invite judges from other common law jurisdictions to hear cases. Currently, there are 14 eminent overseas judges from the United Kingdom, Australia and Canada sitting on our Court of Final Appeal as non-permanent judges. In respect of criminal justice, anyone accused of breaching the law in Hong Kong would face an open and fair trial. Article 10 and Article 11 of the Hong Kong Bill of Rights also provide sufficient protection to any person with any criminal charge laid against him, or whose rights and obligations are in a suit at law. The Hong Kong courts will, as always, with their sound rule of law and human rights protection, handle all cases in an independent, fair and just manner.

Thank you, President.

LCQ3: Flood prevention in the New Territories

Following is a question by the Hon Kenneth Lau and a reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (June 26):

Question:

Last month, a series of severe rainstorms caused serious flooding at a number of villages in Tin Shui Wai, with floodwater reaching the waist level and quite a number of villagers being trapped. Some villagers have relayed that during the onslaught of super typhoons in Hong Kong in the past two years, they suffered huge losses and their lives were under threat. As extreme weather conditions have become increasingly frequent and this year's typhoon season is drawing near, the villagers are very worried. In this connection, will the Government inform this Council:

(1) of the number of flooding reports received by the Drainage Services Department in each of the past five years, the number of the flooding locations which were flooding black spots, as well as the causes for the flooding;

(2) of the measures taken by the Government, since the onslaught of super typhoon Mangkhut in September last year, to improve the flood discharge capacity at the flooding black spots and the villages at low-lying locations vulnerable to seawater inundation in the New Territories, as well as the details of such measures; and

(3) whether it reviewed afresh and updated, in the past six months, the list of flooding black spots and the list of low-lying locations vulnerable to

seawater inundation in the New Territories, and carried out corresponding flood prevention works; if so, of the details; if not, the reasons for that?

Reply:

President,

The drainage facilities in rural areas in the New Territories (NT) comprise a mixture of natural streams, man-made channels and pipes. In general, the construction and maintenance of the required drainage facilities are undertaken by the Drainage Services Department (DSD), other relevant departments and private owners concerned according to their respective responsibility. To prevent flooding caused by drain blockage, the DSD, before every rainy season, collaborates with other relevant departments to step up cleaning of public channels and pipes, and reminds private owners to properly check and repair the drainage facilities on their lands through distribution of pamphlets.

Upon receipt of a flooding report, the DSD will provide emergency support to help the citizens tackle the flooding problem. In the morning of May 27, 2019, the Hong Kong Observatory (HKO) issued the Amber Rainstorm Warning Signal, meaning "rain has fallen generally over Hong Kong, exceeding 30 millimetres in an hour". However, at that time, rainfall in some parts of Tuen Mun and Yuen Long (including Tin Shui Wai) had already reached 70 millimetres in an hour and the DSD had received a total of five flooding reports in the two districts. The DSD staff were swiftly deployed to the affected areas to render assistance, sparing no effort in cleaning blocked channels and draining excessive water, regardless of whether the drains were on private or government land. These areas resumed to their normal state shortly after the flood.

In addition to offering emergency support, the DSD has been examining villages with past flooding records so as to formulate appropriate drainage improvement measures. It has completed a number of flood prevention works in the NT, including the river training works for Sheung Yue River, Shan Pui River and Kam Tin River. We are currently seeking funding approval from the Finance Committee for conducting drainage improvement works in the rural areas of Northern NT, Yuen Long and Ngong Ping. Moreover, the Home Affairs Department will consider the villagers' requests for implementation of minor construction or improvement works to the drainage facilities in the villages under minor works projects.

Having consulted the relevant departments, I provide a reply to the three parts of the Hon Kenneth Lau's question as follows:

(1) According to records, the DSD received about 400 flooding reports in the past five years, with an average of 80 cases per year and seven of which occurred in NT flooding blackspots. Basically, these were incidents of localised flooding lasting for a short period of time. The affected areas were quickly reinstated after emergency services had been rendered by the DSD. The findings of the DSD indicated that the flooding incidents mainly

occurred in areas with blocked drains or inadequate drainage under persistent heavy rain, and low-lying locations vulnerable to seawater infusion or inundation during typhoons.

(2) and (3) The DSD reviews the flooding blackspots and locations vulnerable to seawater infusion and inundation in Hong Kong every year.

With the progressive completion of major flood prevention projects, the number of flooding blackspots has reduced substantially. As at March 2019, 125 flooding blackspots have been eliminated, and there are only six remaining. Drainage improvement works for two flooding blackspots located at Ting Kok Road in Tai Po and Wan Chai District have already been completed, with their effectiveness being closely monitored. These blackspots will be eliminated when appropriate. As regards the other four blackspots, two of them are located in the NT, namely Shek Wu Wai in San Tin and Lam Tsuen Valley Basin, while the other two are in Tsim Sha Tsui and the Southern District. The DSD is taking forward in phases the strengthening of the drainage facilities in these areas. Funding approval is being sought from the Finance Committee to enhance the flood prevention capacity of the blackspot in the Southern District. Strategically, upstream interception and downstream upgrading works are generally effective measures to alleviate the flooding risk in the village environ.

As revealed from previous severe or super typhoons, the Government has identified some low-lying locations vulnerable to seawater infusion or inundation (including Luen On San Tsuen, Kar Wo Lei, Sham Tseng San Tsuen, Lei Yue Mu, Nam Wai in Sai Kung, Tai O and low-lying areas along the seaside of North-western Yuen Long). The DSD and other relevant departments are implementing measures such as provision of flood walls/demountable flood barriers and installation of flap valves at the drainage outlet to prevent seawater from flowing in. The construction of concrete walls and rock-armoured bunds along the seashore can also lower the risk of flooding caused by waves overtopping the seawalls. Besides, the Government has set up storm-surge alert systems at various low-lying areas that are vulnerable to seawater inundation. Upon the issuance of warning on storm surge by the HKO, the DSD will, at the relevant locations, deploy pumping facilities, install water-stop boards, or provide sandbags for the use of the residents and shop operators in need, in order to reduce the flooding risk arising from storm surge.

In April this year, the Civil Engineering and Development Department commissioned a consultant to undertake a feasibility study entitled "Coastal Hazards under Climate Change and Extreme Weather and Formulation of Improvement Measures". The study aims to conduct a comprehensive review of the low-lying coastal or windy locations, and to carry out investigations into storm surge and wave in order to assess the impacts of extreme weather on these locations. Based on the outcome of the study, the Government will formulate appropriate protection measures, including improvement works, management measures and other options, to strengthen the resilience to big waves at the coastal areas in the long run.

Fireboat Alexander Grantham Exhibition Gallery to close temporarily

The Leisure and Cultural Services Department today (June 26) announced that the Fireboat Alexander Grantham Exhibition Gallery at Quarry Bay Park will be closed temporarily from July 2 for maintenance and renovation works.

The works are expected to be completed in September this year. During the renovation period, all the facilities at the gallery will be closed, but outreach programmes will be organised.

For enquiries, please call 2367 7821.