立法會
Legislative Council

Ref: CB1/BC/4/00/2

Bills Committee on
Securities and Futures Bill and Banking (Amendment) Bill 2000

Verbatim transcript of meeting
held on Friday, 27 April 2001, at 8:30 am
in Conference Room A of the Legislative Council Building

Members present	**:**	Hon SIN Chung-kai, (Chairman) Hon Margaret NG, (Deputy Chairman) Hon NG Leung-sing Hon Bernard CHAN Hon Abraham SHEK Lai-him, JP Hon Henry WU King-cheong, BBS Hon Audrey EU Yuet-mee, SC, JP
Members absent	**:**	Hon Albert HO Chun-yan Hon Eric LI Ka-cheung, JP Dr Hon David LI Kwok-po, JP Hon James TO Kun-sun Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP Hon Jasper TSANG Yok-sing, JP Hon Ambrose LAU Hon-chuen, JP
Public officers attending	**:**	Miss AU King-chi Deputy Secretary for Financial Services Miss Vivian LAU Principal Assistant Secretary for Financial Services Mr David CARSE Deputy Chief Executive, Hong Kong Monetary Authority Mr Y K CHOI Executive Director, Banking Supervision Department, Hong Kong Monetary Authority

		Mr Arthur YUEN Division Head, Banking Supervision Department, Hong Kong Monetary Authority
		Mr P A DAVIES Senior Assistant Law Officer (Civil Law)
		Ms Beverly YAN Senior Government Counsel
		Ms Sherman CHAN Senior Assistant Law Draftsman
		Mr Michael LAM Senior Government Counsel
Attendance by invitation	:	Mr Mark DICKENS Member of the Commission & Executive Director, Securities and Futures Commission
		Mrs Alexa LAM Chief Counsel, Securities and Futures Commission
		Mr Gerald D GREINER Senior Director of Supervision of Markets, Securities and Futures Commission
		Mr Andrew YOUNG Legal Consultant, Securities and Futures Commission
Clerk in attendance	:	Mrs Florence LAM Chief Assistant Secretary (1)4
Staff in attendance	:	Mr LEE Yu-sung Senior Assistant Legal Adviser
		Mr KAU Kin-wah Assistant Legal Adviser 6
		Ms Connie SZETO Senior Assistant Secretary (1)1

主席：

各位同事，我們現在開始舉行會議。今天主要是討論第XI部，但也容許同事們對第X部提問。

余若薇議員在開會前曾提及，對第X部分還有問題跟進。今天出席的政府代表，可能不是上次與會討論第X部的代表，我們可以先提問題，請政府作書面回應。

局長，今天應該是討論第XI部，但剛才有一位同事提出希望就第X部作跟進。如果出席上次會議的代表今天不在場，可以將問題先記錄，能回應的就作出回應，否則，待政府以書面回應。

Audrey, 請提問。

余若薇議員：

好的，多謝主席。我上次也提到，我對第X部還有很多問題，上次還沒有提問完畢。我希望林太可以作記錄，因她本身是證監兼律師。

第X部有很多地方的涵蓋範圍是很廣泛的，我希望澄清有關要求轉移財產的保管的第199(1)條。我上次曾提到“轉移”的該部分有問題。第199(1)條不單訂明證監會通知持牌法團，還有或“任何其他人”，所包括的範圍非常廣泛。不單是持牌法團，而是包括任何人士，都可以由證監會給他通知。另外，關於“轉移有關的財產”該句，在第二行括號內指明是“不論是否屬於該法團或該人(視屬何情況而定)的財產”，即是有關財產無論是否屬於那個人，都可以向他作出通知，要求他有所作為，這裏所包括的範圍為何如此廣泛？應該怎樣處理？

第199(5)條也是很廣泛，好像一張空白的支票，可以藉着此條申

請任何命令、做任何事情、關於任何物業，這條條文的作用究竟在哪裏？還有第199（7）條第(b)段，關於"有關財產"，證監會指令的"有關財產"包括第(7)(b)段，即證監會合理地相信是與構成該法團獲發牌進行的受規管活動的業務有關連的其他財產，"有關連"這字眼的定義也很廣泛，只要是有關而不一定是擁有的。

副主席：

主席，"有關"和"有關連"有沒有分別？因聽起來，"有關連"似乎比"有關"還要廣泛。

余若薇議員：

主席，你應該記得在《版權條例》中，"connected"一字所包括的範圍十分廣泛，所以我希望澄清這方面。

接着，第202條也有一些地方所包括的範圍十分廣泛。第202（11）條及（12）條提到，如果持牌法團或任何人士所做的事是證監會的指令要求，並不影響合約。但在第（12）條卻指明：凡任何人憑藉這些條文的施行而撤銷任何協議，此處的"任何人"是指誰？很明顯不只是持牌法團，亦未必是證監會送達通知予他的人，總之任何人士或與這件事有關的人士都可以撤銷一些協議，是否指與持牌法團有合約關係的人士都可以？因為"憑藉"這些通知或條文而撤銷，是否指證監會作出通知的時候會因此而撤銷一些合約？可否這樣理解？否則為何用"凡憑藉"，不是"因為"而是"憑藉"，不是"by reasons of "而是"by virtue of."

另外，有關破產的第205（2）條的寫法可能有些問題。此條訂明：如"任何持牌人"的債權人有理由提出呈請，則證監會便可提出呈請。若我沒記錯，《破產條例》似乎訂有一個先決條件，須有一個statutory demand。這樣的寫法不知是否有此效果？希望政府進一步跟進。

最後是第208條，上次也曾就第208條提出多個問題。我希望證監會可以舉一些例子，說明一些人在什麼情況下須向公眾或部分公眾人士發出的有關通訊負有責任，但不會根據第(3)條的情況，就是該人曾在與該有關通訊有關連的情況下就該另一人承擔責任。

主席：

你希望政府今天回應，還是稍後回應？

財經事務局局長區璟智女士：

主席，我希望報告一下，上次會議結束後，我們也做了一些工作。

主席：

好的。

財經事務局局長區璟智女士：

在上次會議中，議員們有些疑問，就是擔心第X部分某些權力的範圍寫得比較廣泛，在草擬條文的時候，拿捏準則的確很困難。證監會曾向政府提到一些實際上的個案，在這些個案中，證監會希望保障投資者，但卻無能為力。投資者亦有一定的訴求，希望證監會可以保障投資者的財產。我們是基於這些訴求而嘗試草擬這些條款。但上次大家提及的問題也很正確，就是條文的範圍會否太廣泛？我們在草擬時認為，既然條款內有一定的制衡，例如規定運用這種權力的情況，而這種權力也不是即時便能使用的，可能要到原訴庭取到法官的批准，這種制衡是否已足夠？但從回應的意見看來似乎並不可能，但也可能是可行，須視乎政府的進一步行動。我們現在已就第199條、第202條、第205條做了一些工作。我們須要求證監會

的同事舉出一些實際的例子。為何我們只是將持牌人列入範圍？可能實際上會有漏洞。在現實生活中，有很多不同途徑可將資產轉移到其他公司，我們希望能預計到這些情況。可否給證監會同事一些時間，作一些個案的搜集，稍後再向各位報告。各位可以再詳細研究那份資料，在這些個案下條文會否是草擬得太廣泛？這樣的做法也可能是比較全面一點。另外，證監會的同事，林太或Eugene，今天是否打算對法律理解方面有所補充？

Mr Eugene GOYNE, Senior Manager, Enforcement, Securities and Futures Commission:

I think I may be able to answer some of the Honourable Members' questions, but I was not involved specifically in drafting this part and I may be aware of some of the policy intention. However, I think I may end up misleading you, so I would rather prefer that the question be taken on notice, and to provide a more considered response, if that is permissible.

Hon Audrey EU Yuet-mee, SC, JP:

Mr Chairman, can I just say that on the last occasion I already said that I support the intent and the policy objective behind this Part. I must say also that on the last occasion I used the term "sloppy drafting". I did not mean to be personal, and I think probably, in retrospect, I was not being sensitive enough about feelings of people who worked very hard over the drafting. But I do feel very strongly that however laudable the policy objective, it has got to be reflected reasonably and carefully in legislation, which after all, has an effect not only for Hong Kong but also on an international basis. I hope it is not a point-scoring exercise to prove who is the better lawyer, but to work together to make a better piece of legislation.

主席：

我覺得副局長剛才提到最後那部分很重要。例如你確實能取到一些live cases。過往的確是有一些情況，是在查訊的過程中資產會不知不覺流

失，如果各位在察覺這些問題時找出原因，我想是會有幫助。至於能否在運用這種權力的時候多加一些制衡，以及這種權力運用的時候會否過於廣泛等問題，各位應該考慮如何作出平衡。我會從另外一個角度觀察，當然大家會有不同的角度，例如若我的資產被他人託管，而我在作出投訴時，資產卻在不斷地減少，我會很擔心。

余若薇議員：

主席，其實一般的做法，就是到法庭申請禁制令或者injunction，發出一個通知要求他做一件事情未必是最快的方法，況且你通知他，他也未必會即刻照辦。你馬上到法庭去申請命令可能更快捷。我希望政府可以考慮得更仔細。

主席：

我們現在討論第XI部。我全力支持這點。請副局長作開始的介紹，今天討論的這部分可能是比較受爭議的地方，特別是關於可以上訴範圍的部分。副局長。

財經事務局副局長區璟智女士：

首先我做一個比較簡單的介紹，再請SFC的同事Mr BAILEY作一個較詳細的介紹，特別是就證監會實際運作的經驗作出解釋。剛才主席提到第XI部證券及期貨事務上訴審裁處，這部的題目很清楚地表明是建議設立一個上訴審裁處，此審裁處的功能是覆核證監會做出的某些決定，而這些決定影響其他人的權益和權利。我們建議由一名法官出任審裁處的主席，另需兩名擁有相關市場或專業經驗的人士協助，審裁處在覆核過程當中，會考慮個案的是非與曲直，以及有權確認或更改，取代證監會的有關決定。

在我未提到新建議前，先和大家回顧一下現有的機制，以及我們覺

得應該要改善的地方。在證監會的機制下事實上已有一個獨立於證監會的上訴委員會，但現有的上訴委員會有一些不足的地方，主要歸納起來有3點，第一，現有的上訴委員會的司法覆核、司法管轄的權力較窄，只可以覆核證監會某些有關登記註冊的權力，市場人士也提出可否將覆核的範疇擴大。

第二個可以改善的地方，就是現有的上訴委員會不是一個專責委員會，也不是一個全職的組織。一些委員須在下班後或周末的私人時間，沒有工資地義務作出幫忙。這對擔任委員會審裁員的委員來說很辛苦，而對受委屈的業界人士來說亦不公平，因為輪候的時間可能較長，這對於公義來說不是一件好事，對證監會也存在一個不穩定性，因為時間拖長後，也不知道它的決定是否可以執行？對投資者來說也並非好事。

第三個要改善的地方，就是現在上訴委員會的程序不是很清晰，例如聆訊前的準備工作或聆訊過程當中，雙方可能用一些很簡單的方法來解決問題，現在我們沒這樣的安排，是辦不到的。為了處理這3個問題，我們建議在第XI部成立新的審裁處這個上訴機制，希望能解決我所提出的3個問題。

第一，應有一位全職的法官主持聆訊，希望輪候的時間可以縮短。我體會到有審裁處需要有市場知識，才能處理個案？所以應要有兩名有市場知識或有專業背景的人士來協助法官，處理和聆聽有關上訴。

第二，上訴審裁處的司法管轄權，與現時的委員會比較擴闊了不少。我簡單地提供一些數字，在附表7第2部載列的可以上訴的決定大概有60多項，其中有半數是現在不可以上訴的決定或一些新的決定。可以覆核的範圍已擴闊超出一倍。我現在不詳細敘述這些可以上訴的決定，稍後我請Mr BAILEY向大家介紹。這些決定包括證監會所有對發牌人士做出的一些決定，第二就是在批出投資要約(offers of investments) 時作出的決定；第三，就是披露權益時作出一些豁免的決定。這是為解決現有不足而提出

的第二個範疇。

第三方面，為彌補現有不足，第XI部建議，新的上訴審裁處應該有較詳細的程序，方便運作。新的程序包括賦權審裁處以舉行一些初步會議，以及可以發出同意令(consent orders) 以解決某些問題，希望能將整個聆訊的過程縮短，這對於雙方都有利。至於上訴的安排，我們建議如果當事人收到證監會的書面決定，應在21天之內提出上訴，稍後我會請Mr. Paul BAILEY詳細解釋證監會在向一個人發出書面決定前須通過的步驟。此外，除了剛才說的哪些決定可以上訴之外，我們也很小心地研究哪些決定是可以暫緩的，直到上訴過程完畢，才決定是否可以生效。但為了保障投資者的權益，可能有小部分決定要即時生效。即使是即時生效，我們也希望有一個補救的措施，就是當事人可以即時到審裁處提出申請，要求暫緩執行其個案，這是我們所構思的安排。我亦建議以後的聆訊應公開進行，除非有某些特殊的要求或某些司法公義的原因，才可能要閉門聆訊，希望能藉此稍為提高透明度。

相信委員會最關心的課題，就是選擇哪些證監會的權力可以納入上訴機制的同時，我們一方面要保護受屈人士的權益，另一方面又不可以妨礙證監會有效地執行監管工作，也就是希望能有效地保障投資者，兩者之間如何取得平衡。在這方面我們和證監會做了很多的研究工作，相信今天委員會在這方面也留意，究竟現在我們所提交的建議是否已達到平衡點。簡單地說，我們是為了達到這平衡點而有原則地嘗試選擇某些決定。首先，此決定會否讓當事人有一個conclusive implications，即是否有決定性、關鍵性的影響？在很多情況下，證監會要作出一連串的決定才能對監管者作出最終的概括性決定。先前的決定可否上訴？如作出上訴會有何影響？Mr BAILEY 會就這一點就他實際的監管經驗向大家解釋。第二，我們考慮的因素就是，有關的決定會否涉及某些很廣泛的政策層面？證監會實際上會進行諮詢工作，例如條例訂明證監會有權發出指引和守則，這些是否可以上訴？還是這些事涉及公眾，證監會也會進行諮詢，而那個過程會否是一個吸納市場意見的良好渠道？第三個因素，我們會考慮有關的決定是否已

有其他的上訴機制？假如已有，我們就覺得無需重疊。第四個我們要留意的因素，就是有些決定證監會是要立即採用的。如果可以上訴，可能變成給予當事人一個拖延的策略，令證監會處理監管的工作或在運用某些調查權力時受到影響，我也會請Mr. BAILEY列舉一些例子作出解釋。當然，一些證監會作出的日常決定，例如招聘、支出津貼、聘任核數師等，由於這些決定不會影響市民大眾和投資者，我覺得不需要就這些權力作出上訴，也不是適合的上訴渠道。這就是我們考慮的因素。

在諮詢過程當中，市場人士也很歡迎我們的建議：就是將委員會升格為覆核範圍較廣的全職審裁處，並訂明較清楚方便的程序，以加快運作。也有人詢問有關期限是如何制定的？早期的建議是14天，就是證監會發出書面的決定後，當事人在14天內提出上訴。在諮詢的過程當中，市場人士希望稍為延長有關期限。所以我們在現在的定稿建議21天。我們參考了其他法定的上訴機制，也和現在的規定差不多。就上訴機制而言，如果所作出的決定會即時生效，提出上訴的間限通常較長，例如30天或60天。如果決定不會即時生效，它的期限就會相對較短。在現時的方案而言，如提出上訴，大部分的決定均會暫緩執行。所以我們覺得要取得一個平衡點，21天是適合的。

另一個意見是上訴的範圍是否已足夠全面？這一點其實我們一直都在聆聽市場人士的意見，但一直沒有收到新的意見，以致我們不知還可把什麼決定列入涵蓋範圍。這一點我們是持開放的態度，或者我請Mr. BAILEY再作詳細的解說。

Mr Paul R BAILEY, Member of the Commission and Executive Director, Securities and Futures Commission:

Thank you, Mr Chairman. I am going to go through Part XI and try to explain most of the provisions, and as part of that, I am afraid I am going to repeat some of what Miss AU has said, but I think it is necessary in the context of the presentation.

Part XI, together with Schedule 7, provides for the appeal by persons who are subject to certain decisions by the SFC, and related matters to that. Appeals against specified decisions, which are defined in clause 209, are listed in Part 2 of Schedule 7 on pages C2469 and C2473. They will be heard by a new independent full-time appellate body, the Securities and Futures Appeals Tribunal, which will review the merits of such decisions. My colleague from the HKMA will deal with the appeal mechanisms for authorized institutions against decisions made by the SFC in relation to an authorized institution as an exempt person, or as an associate entity of an intermediary. These are defined in clause 209 as excluded decisions which are listed in Part 3 of Schedule 7.

It also covers certain decisions covered by HKMA as introduced by the Banking (Amendment) Bill. The principal policy intention is to provide rights of appeal for persons who are the subject of various important decisions made by the SFC, and for the expedited disposal of such appeals by the SFAT. As far as matters that can be appealed to the Securities and Futures Appeals Tribunal, there are altogether 64 specified decisions. The number of decisions has been increased significantly, compared with those appealable to the present appeal body, the Securities and Futures Appeals Panel, under existing law – that is section 19 of the Securities and Futures Commission Ordinance. Those currently appealable include various licensing decisions such as refusal to grant a licence, or imposition of conditions on the licence; the revocation or suspension of a licence following disciplinary proceedings; and the issue of various notices relating to restrictions placed on an intermediary of the business.

The Bill makes 36 additional SFC decisions appealable. Paragraph 5 of the paper provides the broad categories of specified additions that will be appealable to the tribunal. Certain of these decisions derive from existing legislation, but are not currently appealable to the Panel For example, requirements for a recognized exchange company to pay to the SFC the costs of imposing a suspension order on it under Part III – that is clause 93(10); decisions relating to collective investment schemes and the promotion of investment opportunities

under Part IV; decisions relating to the appointment of an auditor to conduct an audit of a licensed corporation or its associated entities under clause 155(1) of Part VI; and decisions to direct the latter pay any of the costs and expenses of an examination and audit under clause 155(4) of Part VI; all disciplinary decisions to reprimand licensed persons and responsible officers under Part IX.

Not all decisions, however, are considered suitable for appeal. Many decisions are intermediate decisions, with no substantial conclusive effect on the rights or interests of persons who are subject to them. I will now take you briefly through the example of a complaint made to the SFC, the investigation of that complaint, and the possible regulatory action following that complaint. I hope this will illustrate to you the large number of intermediate decisions that are involved. A complaint is received by a complaints unit, which assesses the complaint. It decides whether or not it should be referred to the Complaint Control Committee of the SFC, which is the body which assesses all complaints coming in to the Commission.

That Committee reviews the referral, and it decides, for example, to refer the matter to Enforcement for possible investigation. The senior director in Enforcement responsible for investigation decides to allocate it for investigation, to a junior staff member, for review. The review is submitted to a director who decides whether an investigation should be started. If the director so decides, he must decide again who will be the investigators, before signing a direction; and he has to decide the grounds and scope of the investigation. An investigator can, in the course of the investigation, make many decisions, including the issue of notices to gather information or interview people, and whether or not to apply for a search warrant from a Magistrate. Of course all these actions have to be within the ambit of the original direction issue. Some of these decisions need additional certifications and authorizations at a higher level, which also require a decision from a person at a higher level. At the end of the investigation a final report is made, which contains various recommendations, all of which need a decision, in practice, by a delegate of the Commission. Action on each of the decisions – for example, to refer the matter to another body, to take disciplinary action, to take

civil regulatory action, to summarily prosecute, or to do one or more of these things – each require a decision. As you can see, there are numerous intermediary decisions in this process, but none have a substantial conclusive effect on a person. The only decisions that have such an effect are some of those which are taken on the strength of the content of the final report. For example a person is prosecuted, at which point the court becomes the independent arbitrator of the matter. The decision to take disciplinary action does not involve a decision at this stage that has a substantial conclusive effect on the person.

Another process involving many intermediate decisions is invoked before a final decision is made, which has a substantial conclusive effect on a person; i.e. to revoke, suspend, fine or reprimand, or in fact to take no further action. This decision is then appealable to the SFAT. I can certainly explain the disciplinary process, which I think I have done on previous occasions, if the members would like me to do it, to show the many processes involved there.

To subject intermediate decisions to a right of appeal may result in numerous appeals for tactical reasons, so as to delay the SFC's actions. In the case of an investigation, for example, this could delay timely regulatory action by disrupting a process designed primarily to protect investors. Therefore, similar to existing law, it is considered appropriate to restrict appeals to the end of a process, when a decision is taken which have a substantial conclusive effect on a person's rights or interests.

Having said that, there are strict internal checks and balances on the intermediate processes which will be subject to the scrutiny of the Process Review Panel. In fact, for enforcement division the Process Review Manual, which we have prepared, setting out all these processes, is at least an inch thick. Also, intermediate decisions can be challenged by judicial review or complaints to the Ombudsman.

There are other decisions that are considered unsuitable for appeal to the SFAT, including when a decision is followed by an application to the court. An example of this is under clause 199, which empowers the SFC to require a person to transfer custody of property

to the SFC, or a person appointed by the SFC. Under clause 199(4) the SFC is obliged to apply to the Court of First Instance as soon as reasonably practicable, for an order in respect of that property, giving the court oversight of the matter. Another example is clause 206, which empowers the SFC to seek various injunctive orders from the Court at First Instance.

Decisions involving broad policy issues that go beyond the rights or interests of a single person or body affected by them, such as decisions to make rules or guidelines which, Miss AU has explained, all go out for public consultation before rules or guidelines are promulgated; and in the case of rules they have negative vetting by the Legislative Council.

Decisions internal to the Commission. Miss AU has explained that there are such things as budgetary matters. Another one that comes to mind is delegation of the exercise of certain powers by SFC staff in an appropriate level of seniority. Those decisions are already subject to a specialized merit review appeal. An example of this is the SFC's decisions under the Code on Takeovers and Mergers and Share Repurchases. They are all appealable to the Takeovers Panel, and in some circumstances to the Takeover Appeals Panel. Both the Panel and the Committee are comprised of a majority of members who are independent from the SFC.

Some have commented that a different approach to that taken under Part XI should be adopted, whereby all decisions of the SFC should be appealable according to general criteria, and specifically excluding only those that cannot be appealed. This is considered impractical. The current approach provides more certainty as to what matters can be appealed. Also, the alternative approach could result in tactical appeals to delay timely regulatory action by the SFC, as decision-making processes can, in many instances that I have previously illustrated, be broken down into innumerable intermediate decisions, all or many of which would be potentially challenged under such an approach.

Therefore the Administration has concluded that the current approach provides the greatest practical level of transparency, and is a most effective means of clearly articulating

the remit of the SFAT, without excessively hampering efficient and timely regulation. We understand that our colleagues in the Bureau have reviewed appeal regimes to which other Hong Kong regulators are subject, and we understand the majority adopt the model.

In the consultation process we have invited the industry to make proposals as to additional matters that they believe should be appealable, so that consideration can be given to including these in Schedule 7. As far as I am aware, no additions have been sought. Also, I would add, to cater for decisions that may warrant inclusion at a later date, clause 227 of the Bill empowers the Chief Executive in Council to amend the list in Schedule 7 by way of subsidiary legislation.

Turning to the SFAT itself, it would be established under clause 210 as a full-time, independent appellate body, to replace the existing Securities and Futures Appeals Panel, which is a part-time body. The constitution of the SFAT is set out in clauses 1 to 20 of Part 1 of Schedule 7. It will consist of three members, including a judge as chairman. The Chief Executive is responsible for the appointment of both the chairman, on the recommendation of the Chief Justice, and a panel of members who are expected to be appointed from experienced and respected persons from the market, business, legal and accounting professions.

For the hearing of each case the chairman will sit with two lay members appointed by the Secretary for Financial Services from the panel; and the Chief Executive may divide the SFAT into divisions if necessary, for example to cater for large case loads in a timely manner. The main objective of the establishment of the SFAT is to provide an independent, high-level tribunal which may subject the SFC's decisions to more thorough scrutiny and review of the merits involved. By sitting full-time, the tribunal should avoid delays in scheduling hearings, and the backlog of cases to which the SFAP is prone.

The procedures and rules of the SFAT will be enhanced when compared with the panel, and will include transparency of hearings. Clause 25 of Part 1 of Schedule 7 provides that hearings should be in public, unless application is successfully made by a party, or unless

the tribunal decides that it is in the interests of justice to hear the appeal or any part of it in private. In regard to decisions of the SFC, the tribunal will be empowered under clause 212 not only to strike down or vary an SFC decision, but also to substitute its own decision.

The SFAT is also empowered to remit a matter to the SFC with directions to revisit the decision before making a decision. The SFAT must accord parties procedural fairness, including a reasonable opportunity of being heard. Clause 214 gives the SFAT the same power as the Court of First Instance, to punish contempt of the tribunal. This strengthens the authority of the SFAT.

Finally, clauses 31 to 37 of Part 1 of Schedule 7 provides the SFAT with additional flexibility in handling appeals. It can hold preliminary conferences and consent orders are introduced to expedite an appeal. If the chairman of the SFAT considers it appropriate, and parties agree, the chairman alone may direct holding a preliminary conference to identify each issue that will be determinative of an appeal. The chairman will be empowered to give directions for the disposal of the appeal, and for the making of consent orders where both parties so apply and agree to the terms of the direction. The chairman may sit alone to handle an appeal or pre-hearing matters, on an application by both parties to review, or on application for a stay of specified decisions. I will explain this later. Save for the points I have already highlighted, the SFAT will function similarly to the SFAP.

Clause 213 provides the SFAT with similar powers to those of the panel, including the power to consider material, require witnesses to attend and testify, or to produce evidence. Clause 216 empowers the SFAT to award costs to the parties and to witnesses. In addition, clause 27 of Part 1 of Schedule 7 provides that parties may represent themselves, be represented by a lawyer, or with leave of the SFAT, another person. Clause 211 deals with procedures for appealing to the SFAT. This is done by serving a written notice on the SFAT, stating the grounds of appeal. The application must be made within 21 days of the SFC's decision having been served.

In regard to decisions, clause 224 and clause 225 stipulate that the majority of the SFC's decisions that are appealable do not take effect until the time for an SFAT appeal has expired, or until an appeal is withdrawn or determined. However, the decision as listed in clause 224(2) will take effect when the decision is notified to the person involved. These decisions include, for example, the imposition and change of conditions of licences under Part V, and the authorization to provide automated trading services under Part III, permission and conditions to continue business when in breach, or apprehended breach, of the financial resource rules under Part VI, permission to continue business after disciplinary revocation or suspension, and conditions on that permission under Part IX, restrictions imposed on the licensed corporation's business under Part X. Such exclusions are entirely for investor protection. For example, the imposition of conditions on an ATS is important, as such an electronic exchange may have large numbers of investors threatened by a systemic failure or inadequate rule. Restrictions are essential when sums may be misappropriated. A good example of this is the Ming Fu Group of Companies. In fact, restriction orders were issued against three registered companies. There were grave doubts as to the solvency of this group, and it was suspected that over $2 million of client assets may have been misused. The restriction notices in this case – and this is perhaps a good example of why they are required under Part X – were to protect the clients' assets that remained, and to make sure of the orderly running down of the business. In this particular case, there was also, I believe, an application to wind up the company under section 45 of the Securities & Futures Ordinance, which is replicated again in Part X.

The other example of this is when there is a risk of financial failure, and perhaps I would highlight this by mentioning the Peregrine Group of Companies, where in January 1998 there were restriction orders issued to a number of registered entities in the Peregrine Group, concerning the handling by those companies of clients' assets. Most of it allowed them to have an orderly run down of positions when a person wanted to close out a position. I am very happy if Members would like to see the press releases in regard to both these cases, which I think highlight how we use both notices and the reasons why we need these powers in particular.

Any permission to continue business after a failure to comply with the Financial Resources Rules speaks for itself. Conditions on such permission must take effect immediately, as these would be crafted to ensure adequate safeguards existed, to protect investors from any possible financial failure of a business. I would remind members that the Financial Resources Rules are one of the mainstays of investor protection, because it relates to the financial wherewithal of the company; and the company must comply with them at all times. If they fail to comply with them, they have to report that. So any breach of the Financial Resources Rules, and if a company is allowed to continue business under those, means it is very, very important that it is done under specified conditions, to safeguard investors.

Similar principles apply with an intermediary permitted to carry on business after, for example, disciplinary revocation or suspension. I would add that reference is made to clause 187(4) in clause 224(2). This relates to the payment of fines, and it will be proposed in the committee stage amendment that the payment of such a fine be automatically stayed by an appeal.

Clause 224(3) provides the SFC with a residual power to specify that its decision will take effect immediately when it is in the public interest or the interests of the investing public. Such a power is currently delegable. It will be proposed in the committee stage amendment to include the non-delegable function in Part II of Schedule 2. This power is designed to cater for extreme circumstances. It is balanced by clause 220, which enables a person who has applied to the SFAT for a review of a specified decision, to apply for a stay of that decision pending the determination of the appeal. This must be heard as soon as reasonably practicable. As previously mentioned, the chairman alone can hear such an application.

Clause 221 confers on a party to review a right of appeal from an SFAT decision on a point of law, to the Court of Appeal. The Court of Appeal may allow or dismiss the appeal,

or remit the matter to the SFAT with such directions as it considers appropriate. Clause 222 stipulates that an SFAT finding or determination is not stayed unless the court orders otherwise. This is to deter appeals purely to delay decisions taking effect.

Finally, I should mention a number of miscellaneous provisions of note. Clause 217 requires the SFAT to deliver its decisions together with reasons, as soon as reasonably practicable after the conclusion of the appeal. Clause 219 allows for the registration of SFAT orders with the Court of First Instance. The purpose is that an SFAT order can be enforced as if it were an order of the court. Finally, clause 38 of Part 1 of Schedule 7 gives persons involved in SFAT proceedings the same privileges and immunities they would have if they were involved in civil proceedings before the Court of First Instance.

The main market comments are dealt with in paragraphs 31 to 37 of the paper, and international comparisons can be found at paragraphs 38 to 45. In regard to these comparisons, we believe the remit of the SFAT is similar to comparable bodies in the jurisdictions surveyed. Thank you, Mr Chairman.

主席：

多謝Mr BAILEY。我想就第2段和24段發問，關於由金管局負責監管的機構從事證券買賣的上訴機制，似乎與現建議有不同的地方，政府可否把條例再清楚解釋一次？

財經事務局副局長區璟智女士：

或者我邀請Mr CARSE解釋，就是證監會所發出的有關決定，如果會影響銀行，上訴機制安排如何？

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

Mr BAILEY mentioned that clause 225 of the Bill stipulates that the appeal mechanism for excluded decisions shall be to the Chief Executive of the Council. Now, excluded decisions will be those made by the SFC in relation to exempt authorized institutions, and these are set out in Part 3 of Schedule 7 of the Bill. Similarly, under clause 12 of the Banking (Amendment) Bill, section 132(a) of the Banking Ordinance is amended to subject various decisions made by the Monetary Authority in relation to exempt authorized institutions, to appeal to the Chief Executive in Council. The procedures for appeals to the Chief Executive in Council are set out in Administrative Appeal Rules made under Cap. 1. I think the first point to make is that these rules are not peculiar to the Banking Ordinance. The appeal mechanism to the Chief Executive in Council exists in relation to a number of ordinances, and the logic of why we have gone down this route is very similar to the kind of logic that applies to other provisions of the Bill and the Banking (Amendment) Bill in relation to exempt authorized institutions. It is to try and maintain internal logic within the Banking Ordinance.

We decided that it was better to use the existing appeal mechanism for all decisions relating to authorized institutions under the Banking Ordinance, and that this would maintain consistency of approach in relation to both securities and banking business. I do not know whether you want me to go into any further detail on the Administrative Appeal Rules at this stage.

Chairman:

It seems that the appeal mechanism for HKMA is quite different from the mechanisms for SFC. Am I right to say so?

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

Yes. I mean, as I say, the appeal mechanism is the Chief Executive in Council. There are two options you can take. You can either decide that the appeal mechanism for all

securities - related decisions should be to the Securities and Futures Appeal Tribunal, or you can decide to maintain internal consistency within the Banking Ordinance, and say that all decisions relating to authorized institutions, whether it is banking business or securities business, should be the existing appeal mechanism, which is the Chief Executive in Council. The latter is the route that we chose. We have consulted the banking industry on this, and they seem to have no objection to it. I mean, it is really up to them, in a sense, because they are the ones who would have to make the appeals.

We are quite content to talk to the industry about this again, but in the absence of objections from the industry in relation to this, we thought the best thing to do was to maintain the internal consistency with the Banking Ordinance.

主席：

這問題會有不少爭議，Margaret。

Hon Margaret NG:

Mr Chairman, there are several points about this. Can I ask Mr CARSE to take us to Part 3 of Schedule 7? I think it is at page C2473. 第C2473頁，應該就是"豁除決定"。

Mr Chairman, we will be able to see precisely what are the decisions of the SFC that we are talking about. I am very puzzled as to why these decisions should be appealed to the Chief Executive in Council, rather than the tribunal, because if we are looking at the uniformity of standard, these are within areas of specialty, and presumably the tribunal is the experts. So why are they to be appealed to the Chief Executive in Council? I understand that the banking community does not mind it, but from the point of view of regulation and using the same standard, why is that a good thing to do? Thank you, Mr Chairman.

I would like Mr CARSE to explain to us with reference to the specific decisions, and explain why this is a good idea.

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

Mr Chairman, I cannot really add much more to what I have already said . It is a question of consistency of approach with the Banking Ordinance. Decisions in relation to licensing of banks are appealable to the Chief Executive in Council. Similarly, we took the view that decisions in relation to licensing for securities business should be appealable to the Chief Executive in Council.

主席：

我們不希望透過這個法例對《銀行條例》作出太多的改變。但是，既然各位在過去的會議中多次提到level playing field，即公平的問題，就和銀行證券業務有關上訴而言，在開始調查時已有不同的機制，到最終作決定時，卻只有兩個團體，其中一個是CE in Council。CE in Council中當然有很多有份量的人，但是他們的知識或研究的重點並不相同。如何能達到一致的上訴決定，這是令人有所懷疑的。

副主席：

主席，我對於簡達恒先生斷然拒絕給我們解釋，感到非常失望，因為我們並不是很熟悉這方面情況的人士，想瞭解一下都不行。就是說你同意與否與他無關。這裏是否牽涉到：證監會可給予一個豁免書作出豁免，而給予豁免書時有何條件，或者是否需要牌照或複本，應由證監會決定。如果證監會的決定在內容上有任何偏差，就應向這個上訴審裁處提出上訴。在表面上看來，上訴審裁處是一個適當的上訴機構，為甚麼這些決定在本質上不適宜由這個審裁處處理，而由行政長官和行政會議處理。我希望政府在這方面稍作解釋。

財經事務局副局長區璟智女士：

剛才Mr. CARSE已經解釋，其實兩個方案都是可行的。但是剛才Mr CARSE提到歷史的背景，就是銀行這個上訴的渠道已經實行了很多年，業界沒有投訴。今次的諮詢過程當中，銀行界和證券界在這一方面都沒有強烈的意見，即是覺得這個安排是可以的。剛才Mr CARSE提到，兩個渠道都有可行的地方，即可以說都有優點。但我的看法是，在銀行業，既然一向有這個上訴渠道，也行之有效，業界沒有投訴，那從一致性來說，是不是維持這個方法比較好點。其實考慮點是在這裏，我們要從歷史的發展，決定現有的運作是否可行。第三就是業界，包括銀行界、經紀界，都贊成這個做法，我們覺得這個方案是可取的，才建議這個方案。

Mr CARSE 是否有補充？

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

Yes. It is not a great matter of principle as far as we are concerned. I mean, you could have either option. All we have done is to say that in terms of logical consistency, you already have an appeal mechanism to the Chief Executive in Council in relation to banking business. Banking business is closely intertwined with securities business. Therefore, why not make the appeal mechanism for authorized institutions to the same historical body which has always heard these appeals?

Just to reiterate, there is not a great issue of principle here and I am not refusing to answer your question. All I am saying is that there are two ways of looking at it. This is the way we jumped. We could have jumped the other way. We have consulted the banking industry on this. They have expressed no objection to maintaining the existing mechanism. If they said, "We would prefer to have the appeals heard by the SFAT", then we would obviously take that into account, and we would change the proposal accordingly.

副主席：

主席，有時不能單從銀行界的角度看，即他們認為哪一個上訴的機制比較適合，而應從公眾的角度去看。當然大家需要考慮銀行界的意見，特別是歷來一向有這樣的一個渠道，若不給他們這個渠道而給予另外一個渠道，當然要參考他們的意見。

但是，大家有一個印象，這個印象不一定是正確的，就是銀行會覺得行政長官的看法會比較包容，而證監會則比較嚴厲。若有不同的上訴機制，特別是針對這個人、這個機構是不是可以有個豁免書，或者是在怎樣的條件下獲得豁免，在此情況下，是否向同一個審裁處上訴會有好處？除了考慮銀行界的喜好外，我們也要考慮一下有否任何利弊。我自己並無成見，不過希望知道有否任何利弊。採用那個機制是純粹歷史的問題，還是關乎機制的好壞。多謝主席。

主席：

我補充一下，當然在諮詢的過程要保留這個機制時，應該是不會有甚麼反對的。但是比較之下，在文件第18段的procedure and power of the SFAT就很明顯地提到transparency of hearing，就是有公開透明的聆聽機會及知悉決定。證券行業在提出上訴的時候是覺得受委屈，便把所有事情公開，以討回公道。但是銀行卻沒有這個機會，我想CE in Council不是採用同一個方式進行上訴，在transparency of hearing方面，CE in Council的過程並不公開，不會有媒介出席或拍攝，雖然法庭也不可以拍攝，但可以旁聽，有關的過程便有所不同。

我無意全面更改《銀行條例》，但是與證券業有關的上訴會否都具有一致性？在銀行業而言就有一致性，但在證券業卻並無一致性。這方面的辯論已持續很久，銀行的證券業是否應由銀監會監管，而證券業則歸證

監會監管？這個已有爭議，但是爭議之餘還須有公平競爭，有公平競爭之後，進行上訴卻是不同的body，是否有足夠的理據？

財經事務局副局長區璟智女士：

我覺得主席剛才提到的很正確，一致性是分直向和橫向的。你剛才提到的方法就是，所有人在作出與證券有關的決定時就依從一個機制，那就是橫向一致性。銀行系統是一個歷史悠久、運作良好的一個上訴機制，如果我把部分抽出來使用另一個上訴機制的話，可能會是一個"斬件式"的做法，所以我們要全面瞭解銀行業這一個上訴機制。我們覺得，若業界接受，而市民大眾又沒有反對，是否應該保留這個一致性？我們經過權衡輕重的考慮後，覺得這樣對公眾利益沒有影響，就銀行業來說可能更為暢順，因為對上訴渠道的運作非常瞭解，我們才選擇這個方案。當然諮詢過程中，從99年到現在，各位都是支持這個上訴方案的，否則我也沒有信心向大家提交這個建議。

主席:

但這樣便很難確保...

副主席：

主席，我不希望妨礙同事們，但是我考慮到證券及期貨的整個監管，最開宗明義的就是哪些人屬於其監管範圍。任何人一旦獲得豁免就不屬於監管的範圍。在金融管理局方面，那一套監管可能是貫徹的、相類似的。但是一開始的基本決定，是由哪個監管架構進行監管，根據該條例，這個決定是規定屬證監會的。既然這樣，就證監會決策的決定對錯而言，最高的內部上訴機制是審裁處。那麼，所有重要的決策是否都應由審裁處覆核？我覺得這是比較基本的問題。

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

Well, as I say, I do not think we have any fundamental objection to that. The question you keep coming to is where you establish the level playing field, and do you establish it within the Banking Ordinance and have consistency of approach for banking and securities business; or do you establish it within the securities business? I do believe that the views of the industry are relevant, in so far as they are the people who will be affected by the decisions, and therefore will be making the relevant appeals. We are quite happy to go back to the banking industry again and ask them about this. But I repeat: we have not got any fundamental objection about making appeals to the SFAT. It is not as if we are trying to get easier treatment for authorized institutions. I do not think you can make any presumption that the Chief Executive in Council is going to be easier on authorized institutions than the SFAT would be.

主席：

我也想過應否因為我們立法會的同事們有這強烈的意見而將政府考慮已久的方案完全改變？我們應否這樣做？我考慮後覺得文件所提及的mechanism是不同的，也就是上訴的透明度不同。我不能想象行政長官坐在法庭聆聽意見，然後撰寫draft和decision，然後就判詞作出決定。但Tribunal會這樣做，並採用自然的公正原則。如果CE in Council採用同樣的做法，我相信一個個案都做不成。

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

That is not the way it was. I mean, there are rules for the hearing of appeals, and the Chief Executive would appoint two members of the Executive Council to hear the appeal, and then make a report to the Chief Executive in Council. The mechanism in a way is similar to the SFAT, in the sense that it can be a quasi-legal proceeding. Both parties, the appellant and the respondent, can be represented legally.

主席：

如果你這樣介紹CE in Council的上訴機制，就等於認同SFAT的優點，而這些優點是CE in Council所沒有的。首先CE in Council不是全職而只是兼職，只聆訊幾個個案，又不公開程序。你現在提到SFAT這個上訴機制的好處，我都全部接受，而且覺得很好，那為何銀行方面不是這樣做呢？

財經事務局副局長區璟智女士：

主席，我剛才已經提到，銀行的全面上訴機制也是一項政策上的考慮。如果“斬件”式將一個部分抽取出來的話，我們是否還要研究對其他部分的影響。這次我們應否先採納這個方案，使與銀行其他決定的上訴有一致性呢？

主席：

我再重覆一遍。有關銀行的其他上訴有其歷史因素，我尊重這一點，這跟證監會沒有關係。例如是否發牌的問題，若要把每一件事都公開討論的話，可能會對銀行造成一定的傷害。上訴可能需要有一定的保密性。但我想強調，我們現在提到的是跟證券業務有關的上訴機制，有甚麼辦法令人覺得那樣的上訴過程是等同於證監會上訴過程，同樣是自然公正呢？

財經事務局副局長區璟智女士：

我在接受這個方案時，並不是認為兩者是百分百相同的，我們不是要有絕對相同的手段，而是要有足夠的渠道，以及達到的結果大致相同，因我們知道現實就是這樣的。既然上訴渠道的手段不可以百分百相同，我們要考慮結果是否一樣，業界是否可以接受，還有市民大家是否反對？這個正是我們以往一年來在諮詢過程中希望尋找的答案。而我們得到的答案

就是現在這個方案是為大家接受的；對結果也沒有大影響。

副主席：

主席，我還是保持很開放的態度，但我覺得這麼重大的原則，我們要多一點時間去研究。因為諮詢過程是有一個缺陷，當然銀行界的意見是很重要，但他們的意見是否應該是決定性的意見？我認為不是。因為現在提到的是整個監管的制度，銀行是否應該受到證監會的監管？有些銀行可能會覺得“做生不如做熟”，不願接受新機構的監管。因為他覺得他完全不瞭解新的機構今後的監管，特別是不知道證監會懂不懂得有關銀行的運作，所以不如接受一向的監管，銀行出現這種心理是可以理解的，至於市民來說，他們未必熟悉有關的運作，怎樣去諮詢市民?市民大眾對這一點或不是很明白。

其他的證券行當然也就以他們的利益為出發點，他們的意見雖然重要，也不是決定性。我覺得證監會的意見才是最重要的。但是證監會是否可以坦白地提出他們的意見，也就是如果證監真的認為自己才是最權威的機構，應該由他來處理。他是否可以公開地向我們提出這個意見？

我覺得以人性方面來說，實際上有個問題。所以，主席，我考慮到我們的做法跟國際上其他地方的做法的異同在哪裏呢？我看不到有相同點。例如英國現在的情況，所有的證券、銀行等等，全部集中在一個機構監管，所以這個問題是不存在的。我們所要求的劃一性，英國可以做到，因為是由同一機構，同一套法律規管，所以絕對可以做得到。

但是在美國方面，情況並不相同，因為美國根本不准銀行從事一些真正的證券買賣活動。我們曾經瞭解過，即使是最新在1999年通過的法例，也只批准在銀行進行一些有限的證券活動。雖然美國的銀行由另一個監管機構監管，事實上銀行所做的證券買賣是很有限制的。

我記得簡達恒先生提過好幾遍，銀行證券的買賣現時僅佔銀行的業務的很少部分。但是我們的條例並非限制銀行只能進行很少的證券業務？將來的發展會怎樣？各位都不知道。在法例之下，銀行可以進行很大程度的證券活動，但是銀行會受到哪個機構的監管？銀行仍然受到HKMA的監管，而不是受證監會的監管。

所以我們這個做法是有問題的。當然我們可以在日後討論的時候這樣解決問題:就是按照銀行的某個條款將銀行證券買賣的活動加以限制。這是另外一回事，但我們採取的做法會與國際其他地方的做法有很大的差別。

財經事務局副局長區璟智女士：

主席，我希望補充一點。我們在商議這個上訴機制的時候，證監會、金管局的同事跟我們進行小組形式的討論。證監會對這個安排是滿意的，也沒有反對的意見。另一方面，我們體會到每個地方的監管架構其實有它的歷史背景和發展因素，有時候是不能照抄的。大家都瞭解這次的方案是一個獨特香港市場的發展路向，是特別設計的一個上訴安排。我們在諮詢過程中，最需要考慮的因素是：對於受證監會或金管局決定影響的機構或人士，能否提供一個合理、公證的上訴渠道，我們覺得這個建議能夠達到這個目標。

反過來說，另外一個渠道是否可行呢？可能也是可行的。但我剛才提到的就是，考慮到香港具有的多項特殊因素，銀行已有這樣的上訴渠道，而且發展已久，我們是否應該“斬件”式地把其中一部分抽出來？這個是剛才Mr. CARSE所提到的。當然，我相信金管局都很樂意跟業界商討對另外一個渠道的看法，並且會再認真地研究。可否向證監會提問這個問題？

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

Just one other point, because you mentioned the reaction of people other than the banking industry. This appeal mechanism was, of course, embodied in the White Bill which was the subject of consultation. I do not think that fundamental objections were raised from parties other than the banking industry; so it has been the subject of general consultation.

主席：

余若薇議員。

余若薇議員：

主席，可否聽聽證監會因何認為這樣的渠道會較好？

證券及期貨事務監察委員會執行董事兼首席律師林張灼華女士：

謝謝主席。其實我們證監會最終的目的，第一就是保障投資者；第二我們希望可以幫助提升業界的水準。

至於誰來監管的問題，我們覺得不是最大的問題，最大的問題在於監管是否公平和足夠？例如銀行是由金管局監管，只要我們跟金管局有聯繫和協議，在協議裏面訂明監管的力度和尺度，同時我們會保持緊密的聯繫。例如將來他們不單要考慮銀行是否有資格獲得豁免，即使獲得豁免，金管局亦將會繼續inspect被豁免的銀行。他們所進行的inspection，都會跟隨我們的一套模式去做，而他們的inspection team也是由我們證監會的人員負責培訓。

所以我們覺得如果可以跟他們同步進行的時候，我們覺得最終的目的—保障投資者，是可以辦到的。

主席：

我也相信，保障投資者這方面是可以做到的。我們在研究制度時，除了觀察其結果之外，還要觀察過程。我覺得那個過程有很大的分別的，即使說結果是一致的，也要令人在邏輯上相信結果是一致的，包括剛才提到的訓練、機制、手法、處事方式等等。簡單地說，就上訴的過程而言， CE in Council 那兩個人聆聽個案的處理方法，是否會與SFAT的方法相同？CE in Council很多是行政會議的成員，他們有他們的專業地位，而且都很能幹，但他們並無這方面的專長，而SFAT所具有的好處，CE in Council未必有。換句話說是各有優點。

在證券及期貨的行業中有很多的investment，簡達恒先生都說過很多遍，銀行業將來靠這個利息差距收息，銀行利息收入的專業業務在比例上可能會越來越少，其他投資的收益可能會越來越多，現在才佔5至7%的這方面的收益將來可能會越來越多。坦白說，銀行向CE in council的上訴機會很微。如果採用同一個上訴機制，這個機制起碼會聆聽證券監會呈交的上訴，並相信一定會就那些個案參考、應用於與銀行有關的個案。CE in council卻沒有obligation這樣做。那麼從何可以體會到一致性？你的解釋解答不到我心裏的疑問。Audrey，你可否先提問？

余若薇議員：

主席，豁除決定應該有13項，據我閱讀後的理解，似乎權力全部在於證監，以及是證監的決定。當然也有提到證監會行使的權力或作決定的時候是要諮詢金管局，但最終都是證監會的決定。我現在提到的是上訴證監會的決定，我希望盡量可能達到一致性。不過，如果有實質的困難，我也想瞭解一下。雖然區小姐提到很多遍說不可以“斬件”式的抽出其中一部分，但假如證監察會的決定不是向同一個審裁處作出上訴，而向CE in Council提出，我覺得你似乎已經“斬件”式地抽出了其中一部分。其實我希望清楚瞭解實際的運作情況，就是如其他持牌的團體到上訴審裁處作出上訴，實質的困難在哪裏，而並非簡單地說不可以公開，然後“斬件”地

抽出其中一部分。我覺得你還沒有答覆主席的問題，就是實質的困難在哪裏。我還想瞭解一下，到SFAT上訴委員會上訴之後，是否還可以再向上訴法庭上訴？至於這些銀行，向CE in Council提出上訴之後，是否不可以再上訴？我希望清楚這個程序。

財經事務局副局長區璟智女士：

剛才30分鐘是在一個philosophical的論點上糾纏，就是究竟一致性是在受影響人士方面，還是在發出決定的那一方面。如果我們根據誰發出決定，而採用一致的上訴渠道，則證監會發出的決定就全部去SFAT。這是一個論點，也是一個優點。另一個論點，是受這個決定影響的人按其習慣向他慣用的上訴審裁處上訴。第3部的決定所影響的人是銀行。銀行慣用的上訴渠道是行政會議，對於他們來說這樣才有一致性。既然兩邊都有爭論，那是否應該長遠地考慮這問題？我們現在是否應檢討金管局保障投資者的角色、將來的方向和路向？不過，新的權力，新的決定可能會出現。上訴的機制不是死的，而是活生生、繼續不斷地發展的。我們應否整體觀察金管局的那個決定和上訴機制的發展？這是一個比較長遠的想法。雖然出現時受這一類的決定影響的是銀行，如果說誰作出這個決定就回到該處作出投訴，那就會朝着另一個方向發展。

余若薇議員：

主席，我希望知道實際的困難在何處。我不是想糾纏在剛才提到philosophical的問題，我希望知道，既然是證監的決定，到審裁處作出上訴有何困難，是否實質上有一點困難？我知道有兩種理論上的看法，但我只想瞭解實際上、運作上的困難。

財經事務局副局長區璟智女士：

Mr. CARSE認為沒有基本上的問題，沒有fundamental difficulty。

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

There is no fundamental difficulty in principle. We are not trying to argue that there is. As I say, you have got to decide when you consider these issues, which way we jump. We jumped in favour of maintaining the existing appeal mechanism that applies to authorized institutions. You could have jumped the other way. I can see all the points you are making about consistency of approach. It should be possible to deal with that, to some extent, through making referral of decisions made by the SFAT to the Chief Executive in Council when it is hearing the relevant cases.

The other principal difference is between the Chief Executive in Council holding the cases in camera and the SFAT holding the cases in public. I have no fundamental objection to cases relating to authorized institutions being held in public, except that where securities business is entwined with banking business and there are points made about the management or controls of a bank, in public, that could affect depositor confidence. I am not saying that that is a fundamental objection, because that is something which probably will not be relevant to most of the decisions that would be held by the tribunal. All I am saying is that that is a difference. You can, in certain circumstances, justify that cases relating to banks should be held in camera, because there are wider sensitivities relating to the soundness of the bank.

But that is not something I perceive as fundamental. I am not trying to claim that this is a major issue of principle. It just depends which way we jump. We have jumped this particular way; we have consulted with the industry; we have consulted generally through the White Bill and no fundamental objection has been raised to the proposed mechanism.

Hon Audrey EU Yuet-mee, SC, JP:

Mr Chairman, can I just say that I am relieved to hear that there are no fundamental

objections, because in the absence of any fundamental objections or practical difficulties, I would agree that we should have consistency. I also want the answer to my question as to whether there is a difference in terms of a right of appeal, because if you go to the tribunal there is a right of appeal to the Court of Appeal; but if you go to Chief Executive in Council, is there any right of appeal from there?

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

I think the short answer is "Probably not". I mean, I cannot be absolutely definitive, because it is difficult to know what view the courts will take. There is a difference in that someone who goes to the SFAT can appeal to the Court of Appeal on a point of law, whereas under appeal to the Chief Executive in Council is up to the Chief Executive in Council to refer a case to the courts on points of law. That, you can argue, is within the discretion of the Chief Executive in Council, rather than being something which is available to the appellant.

Hon Audrey EU Yuet-mee, SC, JP:

Mr Chairman, what is the provision that says the CE has a discretion to refer? Which one is that?

主席：

Miss Sherman CHAN。

高級助理法律草擬專員陳子敏女士：

主席，在行政上訴規則裏有一個案件呈述的規定，說明行政會長官會同行政會議如遇上一些法律問題，可以向上訴法庭徵詢意見。但是當這個決定完成後，理論上只可由司法覆核考慮行政上訴委員會的決定是否準

確，並沒有一個嚴格上訴渠道，只有司法覆核。

Chairman:

Miss Margaret NG。

副主席：

我想提出兩點。第一，剛才簡達恆先生及區璟智女士也提到受影響的是銀行，關於銀行的上訴權，應該詢問哪個機構？

第一點我想提到的是，關於證監會的13個決定，其實受影響不單止是銀行，而是市民。因為最主要的決定，涉及有關機構該受哪一個監管機構監管，是受證監會的監管或受金融管理局的監管。這並不單只是牽涉市民，例如有一所銀行申請豁免，但證監會不給予豁免，如果不獲得豁免，該機構便須受證監會監管，我希望這點沒有理解錯誤。假定現行的條例下有一套完善的制度讓證監會監管一切證券買賣活動，而這個制度是非常完善的，但這些人卻不受這個制度監管，市民是否覺得受影響，而不止是銀行受到影響，這個是第一點。第二點是，剛才我也很小心聽林太提到監管制度的分別，會否造成影響，很大程度是關乎將來兩個監管制度是否完全一樣。除了主席關注到兩個上訴機制是否完全一樣外，監管是否也是完全一樣？到現在為止的審議過程中，你們事實上已很努力令兩套制度相似，但是我們對它是否完全相似或貫徹一致，我還是覺得仍有很大保留。

既然如此，在作出這類的決定時，不可以純粹考慮上訴人願意受哪一個機構監管。我看到有兩方面的做法，證監會的監管是條文化和很嚴謹的。但是銀行方面，行政長官會同行政會議的做法可見是行使很多酌情權，涉及很多歷史關係。其實今次我與主席、胡經昌議員和其他議員到美國參考其他國家的情況時，我們亦明白到為何他們希望銀行由Federal Reserve Bank直接監管及由監管證券方面的機構監管。因為它覺得透過一些人際關

係，大家可以互相多些瞭解、不會有條文化的問題，所以在監管的文化而言，肯定有分別。既然文化不同、規條不同，水準雖然盡量一致，但是仍然有不同。我們是否應該在上訴機制方面要求一致性，而不是完全單由銀行界自行選擇哪些渠道，便採用哪些渠道。

財經事務局副局長區璟智女士：

我們的《白紙草案》所諮詢的對象不單是銀行界，公眾人士也有機會給我們意見，或者請Mr CARSE回應。

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

I think possible we are trying to achieve consistency in the standards that are applied to authorized institutions in terms of conducting their securities business. I think the trip to the States shows that the regulatory framework that you end up with depends on history. The US went down a rather unique route in splitting out securities business from banking business, because of their experience in the 1920s and 1930s. There are many people who believe that the Glasslegal Act was misconceived and did not actually address the problem that arose during that time, but that is past history. The point is that the US has ended up with a rather unique, and some would say peculiar, regulatory framework which relates to their history.

We are dealing with a different historical situation in Hong Kong. We are dealing with a situation where banks already conduct securities business, and securities business is quite deeply intertwined with banking business. The most obvious example is private banking. Is it private banking securities business or is it banking business?

You also have the situation of securities being sold through the branch where there is an obvious synergy between the account the depositor maintains with the branch, and his securities account. I think you have got to deal with the situation you have inherited, and

what we have stressed throughout these hearings is that we are not talking about exemption from regulation. We are going to apply the same rules to the banks that apply to brokers, and in a number of cases that will not be at our discretion. That will be something that is enshrined in the law.

The way I look at this is that we are achieving some of the merits of a single regulator without going through all the effort of setting up a completely new body. Now, you have been to the SFA. I know from talking to my ex-Bank of England colleagues that this has been a mammoth exercise. It has taken years to integrate the banking, securities and insurance regulators within that one organization. So it is not something you can do particularly easily. The main priority in Hong Kong was to revise the securities legislation. You have then got the issue of how you apply that to banks, and we have tried, in a sense, to adopt the single regulator approach, because we will be the frontline regulator implementing the rules which are made by the SFC.

We have changed the secrecy constraints so that there is a seamless transmission of information between ourselves and the SFC. So from that point of view we should operate more or less as one single regulator, even if we are not formally a single regulator.

That is the question of principle. Now, in relation to this particular question of appeals, I appreciate the points that you are making. I can see the logic of it. We tried to pursue a logic of our own. You may disagree with that logic, but I still think it is logical. What I can say to you is that we will go back and think about this further. We will talk with the banks again on this particular issue, and focus their minds on it. We are, in any case, looking at other provisions of the bills in the light of your comments. I think we will have to look at the appeal provisions in the light of any other changes that we might want to make, because the thing has got to be an integrated and logically-consistent whole. So I am not going to try and refute the points you are making, because I can see the logic in them. We will just go back and think again, and talk to the banks about it.

主席：

我懷疑行政長官和行政會議會否經常聆聽銀行的上訴？我相信只有很少的機會。如果這樣，這個根本不是一個行之已久的慣常上訴機構。可以想像的是，金管局之上有個CE in Council，由他指定一些人聆聽上訴個案。如果根據現在的指引，由一個tribunal聆聽相同的事情，其實分別是不大的。但是，從公眾的角度去看，那個一致性是會較為強。即使CE in Council真的要找兩位人士來聆聽這些個案，由他們聆聽這些個案，會否比由兩個專家負責會更為有效？我有很大的懷疑，CE in Council是否真的很樂意去處理這些事情呢？因為他要處理很多問題。吳靄儀議員。

副主席：

對不起，主席。我無意打斷你的說話，只是排隊發言。既然署方要繼續考慮，我希望多提出一個問題。我們在開始的時候都很關注證監會的獨立性；但在提到證監會的獨立性時，我們也特別關注到行政長官可以命令證監會辦某些事情，上訴機制提到的13個決定也是證監會的決定。現在，行政長官會會同行政會議可以覆核這些決定，甚至作出一個不一樣的決定。在某些程度上我們也要考慮這個做法是否一致，會否影響到證監會的獨立性？我很反對行政長官可以指示證監會去辦某些事情，我們日後也會提到這個問題，所以我覺得也許是有關連的，我希望署方可以一併考慮這一個因素。

主席：

我再提到一點，其實體制是不一樣的。一個tribunal可以看成某一種形式的法庭；但CE in Council是政府的一部分，向政府上訴和跟這個法庭上訴是否有不同之處？這也是一個考慮因素。余若薇議員。

余若薇議員：

是關於審裁處的問題。

主席：

好的。主要的部分還未開始。胡經昌議員。

胡經昌議員：

我希望指出，今天討論的建議，其實業界並不贊成。

主席：

為何業界沒有提交意見呢？

胡經昌議員：

有的，我想已經以書面形式提交。

副主席：

我們沒收到，主席。

胡經昌議員：

你們向業界查詢，不要向我查詢。

副主席：

我們並沒有收到有關意見書。

胡經昌議員：

業界這樣告訴我，我回去再查看。

主席：

我是還沒有收到。

胡經昌議員：

我想是還未收到，我可以再跟業界了解。主席，除了exempt AI的上訴機制，我還有另一點希望提及，向證券界的上訴機制提出上訴的有些是個別人士而不是一間公司。個別人士可就不獲發牌、或不獲從業人員資格或除牌等問題，作出上訴。

舉例說：銀行界的從業員，包括主管人士，他們都無需獲發牌照，只有他們的上司認為可以了，便給他們牌照；要是他們的上司覺得他們不行、不喜歡的話就不給他們牌照，他們就會認為為何做得好好的，突然卻不給我們牌照呢？我們到哪裏可以投訴、上訴？

由於證券界有一個上訴機制，證監會若不發牌或者除牌的話，就可以提出上訴。但從事證券業的銀行從業員，若他突然不獲發牌，可能像石沈大海一樣，這個情況是可能有的。雖然我並不是代表銀行從業員，但在這些不合理的情況下，他們可到哪一處上訴呢？再看長遠一點：銀行的從業員在銀行從事證券業已有一段時間，後來因為被認為not fit and proper而取消了登記註冊，他接著又受聘在證券行工作，再向證監會申請牌照時，監管會卻通知金管局，這位人士是not fit and proper的，所以不發牌給他。反過來說，若他從證券業返回銀行界，也會出現相同的情況。從這方面看來，從事銀行業的證券人士，如果證監不發牌給他的話，他可以提出上訴。

但從事證券業的人士若反過來到銀行工作而不獲發牌，他不知道可從哪個渠道提出上訴。我們現在參考的13項決定都是適用於那些AI，也就是銀行。銀行的從業員將來也會從事證券業，這個上訴機制在銀行方面又怎樣實行呢？剛才主席提到，如果將上訴機制交由證監會負責，若出現這種情況可否提出上訴？他們不能夠因爲這種情況而向CE in Council提出上訴，也不能賦予這些人士這樣的權力。怎樣去處理這些"人"而不是"銀行"的個案？現在是說人，不是說銀行。

主席：

局長 or Mr David CARSE？

財經事務局副局長區璟智女士：

我希望請Mr David CARSE作答。

Mr David CARSE, Deputy Chief Executive, Hong Kong Monetary Authority:

As it stands at the moment it is a responsibility of the management of the bank to ensure that frontline staff are fit and proper; and it would be the responsibility of the management of the bank to remove those staff if they were no longer considered to be capable of doing the job properly, in the same way as any member of banking staff is removed at the moment because they are incompetent or because they have committed misconduct. They would not have any appeal to any official body. If we decide to look at the position of individuals in the light of your comments, then I agree that the question of an appeal mechanism would arise. At the moment, if there were to be an appeal mechanism for frontline staff, under the Banking Ordinance, it would be to the Chief Executive in Council, under the current arrangements, just as at the moment in the Banking Amendment Bill, in relation to individuals who are executive officers, their appeal mechanism lies with the Chief Executive in Council. So it is really part of the same issue. If we decide to change the

current proposals in the light of further discussion with the industry, then the appeal mechanisms for individuals will switch to the SFAT rather than the Chief Executive in Council.

胡經昌議員：

主席，現在並沒有這個機制。

主席：

那個做法和證監會的做法不一樣。銀行委派一些合資格的人士辦事，他們若被調職，也未必會獲告知原因是因為經驗不足，可能只是說轉做其他較合適的工作，所以職員並不容易提出上訴。關於上訴的那部分就留待簡達恆先生再作一步的研究。

我認為此問題是沒有絕對性的，我們在考慮證券行業的發展時候，是否需研究證券行業將來的整體發展呢？

財經事務局副局長區璟智女士：

我反而認為此問題應從銀行界的監管、金管局決定的上訴渠道的未來發展作長遠考慮。

由於現時研究的是《證券及期貨條例草案》，不可以在那裏來一個大手術。現在是走快了一步，將來可能需就這個課題再作研究。

主席：

我不是對行政會議有任何的偏見。因為行政會議是一個政府機構，需作出很多日常的decision，by nature而言，它根本不是一個很好的上訴機制；就以往來說，政府是靠著它來把關的。如果考慮到一個上訴渠道是需

要人去聆聽上訴，即使CE in Council願意"接棒"，也是一項既艱辛、又浪費時間的工作。行政會議要兼顧香港政治的發展方向，一會兒要照顧大學撥款；一會兒要研究政治的發展；那裏還顧及聆聽這些上訴？試想一想，行政會議已經有多事情兼顧，如果真的經常有上訴個案，那麼怎辦？CE in Council豈不是很忙。從另一角度來看，香港市民是否真的期望行政會議處理這樣的上訴？

財經事務局副局長區璟智女士：

我們聽取了議員們的意見後，回去會再考慮。我歸納了3點：第一點是1999年7月到現在的諮詢；就如剛才吳議員提到，我們不單聽取了銀行的意見，還聽取其他業界、消委會、傳媒和市民大眾的意見，得出的意見是認為可行，便說這決定是可行的，但也有一些是不可行的。

主席：

你們的建議，他們認為可以；但若當時提議用tribunal的上訴機制，他們也可能同樣認為可行。

財經事務局副局長區璟智女士：

我們接到很多不同的意見，均覺得這決定是並無不可的。第二點，就是在歸納今天聽取的意見後，剛才簡達恆先生也曾提到，他們和業界正商討可否根據以往會議所收到的意見，適度地修訂和改善一些條款。我們可否待那些討論完畢後，研究新的建議，然後再全面考慮哪一個上訴制度是最恰當的。第三點就是我一直提到的問題，就是要考慮銀行的上訴制度的長遠發展，今次把它抽出來後，其餘的部分又怎樣呢？可否先保留起來，然後再整體考慮。這會是長遠的安排。

副主席：

主席，我有一個建議。我們在審議這個草案時，可能需要就某些問題進行內部討論，以便得到原則上的取向。我們在這個問題上的討論，委員會希望得到怎樣的意見？我提議：第一，希望委員會能透過討論對整件事情得到共識。第二，如果我們有任何意見，就用書面的形式交給署方，讓署方考慮時能一併考慮委員會的意見，那樣會比較全面，而不是每個人是基於個人的傾向或感覺。

主席：

這應該是互動的。很抱歉在這個問題糾纏了這麼久，但我覺得這也是很有意義的討論。

余若薇。

余若薇議員：

主席，我有兩個問題。第一，希望澄清這部分經常出現的字眼，這裏提到上訴審裁處會"覆核"證監會的決定。覆核和上訴是有點不同的，在感覺上來說，覆核的意思比上訴較爲廣泛。使用覆核這個字眼是否有特別的意思？

主席：

可否列舉一兩個例子。

余若薇議員：

第210條提到；審裁處具有司法管轄權按照本部及附表7覆核指明的決定，這字眼一直都被採用，並且列明他的範圍。第212條是關於研訊程序、

怎樣覆核和在覆核之時可以做的工作。在提到上訴渠道時，一般會用上訴這個字眼但不一定會用覆核，感覺上覆核好像是廣泛一點，也就是說上訴庭或者是審裁處所處理的事情是可以廣泛一點的。我希望知道那些用詞的意思是否有分別。是不是特地用〝覆核〞一詞，而在權力範圍上並沒有特別意思。另外，第二個問題就是，第210條(2)(a)條提到審裁處是由一名主席和兩名其他成員組成，然後在(b)訂明：由主席主持，他必須與該等其他成員一起聆訊，也就是說你每一次聆訊都有一名主席。但隨後第210(5)條卻提出到：如行政長官認為適當，審裁處可分為多於一個分部，我不大明白實際的運作情況，若只有一名主席，而那名主席每次都要出席，那怎樣可以分為多於一個分部。其實根據構思，行政長官究竟會委任多少人去做這個上訴審裁處。是否有一個panel，然後每一次抽出一些人，這裏沒有提到有關的運作情況。有一些情況是委任一批人士，每次聆訊你就抽調一些人出來，組成聆訊。但是，這裏沒有說明行政長官可以委任多少人，然後每次聆訊抽調多少人，只是提到審判處可以分多一個分部。但由於只委任一個主席，而每次都要有一個主席在場，怎麼可能分為多於一個分部，我不明有關的運作。

主席：

我希望各位留意，法律顧問也提問了同樣的問題，在CB(1)1104/00-01號文件，法律顧問在該文件內同時提出了3、4個同樣是"not clear"的問題，我想政府還沒有回應法律顧問的意見，法律顧問也提出和余議員相同的問題。

財經事務局副局長區璟智女士：

主席先生，第一個問題我稍後請Eugene從法律觀點解釋我們的政策原意。使用"review"這個字，其實就包括了可以確認，更改，或是取代證監會的決定，或是將那個決定發回給證監會，連帶一些例如再作聆聽的指示，所包含的範圍應該比較寬闊。現在使用這個字眼，究竟在這個法案裏有沒

有其他的詮釋，就請Eugene作解釋。若上訴審裁處有太多個案，我們預計是容許他設立分部，那個安排就類似現有的內幕交易審裁處，即是說Chief Justice可以建議多委任一位法官做另外一個分部的主席，至於條款的安排方面，問題第二部分我們請Sherman解釋法律上的處理。主席是會作這樣的安排。至於那些委員，行政長官會委任一批專業人士，每一次進行聆訊時，財經事務局局長會找了兩位委員來協助法官。構思就是這樣的，或者我請Eugene解釋。

The first question is about why you use the word "review" and how it is interpreted in the Bill.

Mr Eugene GOYNE, Senior Manager, Enforcement, Securities and Futures Commission:

Yes. It is a timely question, and Sherman and I were actually discussing it in the ante-room before we entered the chamber. There has been some debate internally, within the Commission, and the Department of Justice and the Bureau, during the drafting of the provisions, as to why the appeals tribunal was actually termed "an appeals tribunal" with the term "review" actually used in the body of the provisions. In the ultimate, I can see some scope for perhaps conceptual confusion. However, I think the provisions are quite clear as to the actual scope of the powers of the tribunal.

If you were to turn your attention to clause 212(2), it is quite clear there that the body is in fact a merits review tribunal, and there can be absolutely no doubt about the scope of its powers, which are to confirm, vary or set aside the decision, and in addition - this is a new power over that of the SFAT, the existing power – "substitute for the decision any other decision which the tribunal considers appropriate, then indeed to remit back to the Commission with such corrections as it considers appropriate".

So in effect, and what has historically happened in practice with the SFAT, it is in fact entirely an appeal de novo and in the appeal body at present, and it is certainly intended,

under the new provisions under the Bill, which are proposed, particularly with the addition of "substitute any decision that the tribunal considers" in place of a Commission decision, that it will completely review the Commission's decision. It is not a review, an appeal, in the terms of a legal appeal whereby it will be reluctant to disturb the findings of the SFC and give it some deference, unless it feels that its decision is appropriate in the circumstances, and that it will not be reviewing factual matters.

What happens now in practice, and what it is anticipated will happen in practice, is a full review de novo, where if necessary the whole case will have to be re-argued. Evidence is tendered; the appeal body can consider new evidence; and again, if you were to turn to the powers in clause 213, there it has power to consider new evidence, to call new evidence, to consider any evidence, whether it was before the Commission or not. So the tribunal is in fact an inquisitorial body with very wide-ranging powers, modelled on similar bodies both present and in existence with the existing appeals panel. The powers in clause 213 are very similar to its existing powers, and also with similar merits review bodies overseas.

Given the clarity of the specific powers and the specific provisions, I think relatively little turns upon the use of "appeal" in the title of the body itself, and also in the heading within the Bill, because the powers themselves are very, very specific. We ourselves on occasion have said "Why are we calling it an appeals body when we actually call it 'a review'"? My answer would be – and I suppose you can take it in many different ways; maybe you wish consistency – that "appeal" is readily understandable by people. It is a commonly-accepted parlance, even to the person in the street. They understand "an appeal". They may not make the distinctions that the lawyer will make, but a lawyer will look at the provisions and go "Ah ha. This is what the tribunal can do with an appeal de novo. It's a merits review body". "Review" is just a tactical decision used in the context that you could substitute "appeal" if you wished. Little turns upon it, and it depends, I think, on the Administration, although I cannot say this myself. Perhaps it is for internal matter, it would be perhaps willing to review that for consistency, with something the Committee desires.

主席：

可否將下半部問題留待日後討論？

財經事務局副局長區璟智女士：

或許給Sherman一分鐘的時間解釋。

主席：

好的。

高級助理法律草擬專員陳子敏女士：

這個安排是基於《內幕交易條例》內的一個條文，因為要設立一個安排，以備不時之需，就是將那個tribunal，即審裁處，多分一個部門，分為小部或分部，然後就可以讓他們應付多一些案件。在這個部分也做出了相同的安排，就是：如果審裁處分了分部以後，適用於審裁處的有關條文就當如適用於每個分部一樣，所以，如果審裁處自己需要一個主席和兩個成員的話，每個分部都需要一個主席和兩個成員。

主席：

由於時間關係，我希望政府可回應法律顧問的文件（CB(1)1104號文件）。部分的問題可能已作回應，包括有4、5個"not clear"的問題。余若薇剛才的問題也都touch過。由於今天花了比較長的時間談論一個大題目，有一些細節還沒有商討。我希望在下次會議繼續討論這部分。我希望提醒各位，CB(1)1092/00-01號文件是關於調動會議日期的，我希望那些不能出席的同事向秘書提出，因為我要確保要有足夠的法定人數；不然的話，我恐防會流會。請各位回覆。多謝各位。

1

2

3 m2756