

立法會
Legislative Council

LC Paper No. CB(1) 1099/01-02

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by the Administration)

Ref: CB1/BC/4/00/2

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

**Minutes of meeting
held on Tuesday, 4 December 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 Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Hon Bernard CHAN
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Jasper TSANG Yok-sing, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
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 James TO Kun-sun
- Public officers attending** : Miss AU King-chi
Deputy Secretary for Financial Services
- Miss Vivian LAU
Principal Assistant Secretary for Financial Services
- Miss Emmy WONG
Assistant Secretary for Financial Services
- Mr David CARSE
Deputy Chief Executive, Hong Kong Monetary Authority

Mr Arthur YUEN
Division Head, Banking Supervision Department, Hong
Kong Monetary Authority

Mr Gilbert MO
Deputy Law Draftsman

Ms Sherman CHAN
Senior Assistant Law Draftsman

Mr K F CHENG
Senior Assistant Law Draftsman

Ms Fanny IP
Senior Assistant Law Draftsman

Mr Michael LAM
Senior Government Counsel

Ms Beverly YAN
Senior Government Counsel

Miss Ada CHEN
Senior Government Counsel

Ms Franscoise LAM
Government Counsel

Mr L Y YUNG
Government Counsel

**Attendance by
invitation**

: Mr Mark DICKENS
Executive Director, Supervision of Markets, Securities
and Futures Commission

Mrs Alexa LAM
Executive Director, Intermediaries and Investment
Products, Securities and Futures Commission

Mr Andrew YOUNG
Chief Counsel, Securities and Futures Commission

Mr Joe KENNY
Consultant, Securities and Futures Commission

Miss Lucinda WONG
Director, Licensing Department, Securities and Futures
Commission

Mr CHUNG Hing-hing
Associate Director, Licensing Department, Securities and
Futures Commission

Mr Harold KO
Senior Manager, Investment Products, Securities and
Futures Commission

Mr Gary HO
Assistant Manager, Investment Products, Securities and
Futures Commission

Clerk in attendance : Ms Connie SZETO
Chief Assistant Secretary (1)4

Staff in attendance : Mr KAU Kin-wah
Assistant Legal Adviser 6

Mr S C TSANG
Senior Assistant Secretary (1)7

I Consideration of Committee Stage Amendments (CSA) to the Securities and Futures Bill (SFB) and the Banking (Amendment) Bill 2000 (BAB) proposed by the Administration

Parts I to VII of and Schedules 2,3,4,6,6A & 6B to SFB

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|----------------------------------|---|
| (LC Paper No. CB(1) 277/01-02 | -- Marked-up version of CSA to Parts I & II of and Schedule 2 to the English version of SFB |
| LC Paper No. CB(1) 392/01-02(01) | -- Marked-up version of CSA to Parts I & II of and Schedule 2 to the Chinese version of SFB |
| LC Paper No. CB(1) 358/01-02(01) | -- Marked-up version of CSA to Part III of and Schedule 3 to the English version of SFB |
| LC Paper No. CB(1) 395/01-02(01) | -- Marked-up version of CSA to Part III of and Schedule 3 to the Chinese version of SFB |
| LC Paper No. CB(1) 358/01-02(02) | -- Marked-up version of CSA to Part IV of and Schedule 4 to the English version of SFB |
| LC Paper No. CB(1) 392/01-02(02) | -- Marked-up version of CSA to Part IV of and Schedule 4 to the Chinese version of SFB |

- LC Paper No. CB(1) 358/01-02(03) -- Marked-up version of CSA to Part V of and Schedules 6 and 6A to the English version of SFB
- LC Paper No. CB(1) 392/01-02(03) -- Marked-up version of CSA to Part V of and Schedules 6 and 6A to the Chinese version of SFB
- LC Paper No. CB(1) 358/01-02(04) -- Marked-up version of CSA to Part VI of the English version of SFB
- LC Paper No. CB(1) 395/01-02(02) -- Marked-up version of CSA to Part VI of the Chinese version of SFB
- LC Paper No. CB(1) 358/01-02(05) -- Marked-up version of CSA to Part VII of and Schedule 6B to the English version of SFB
- LC Paper No. CB(1) 395/01-02(03) -- Marked-up version of CSA to Part VII of and Schedule 6B to the Chinese version of SFB
- LC Paper No. CB(1) 410/01-02(03) -- Marked-up version of CSA to the English version of BAB
- LC Paper No. CB(1) 478/01-02(01) -- Marked-up version of CSA to the Chinese version of BAB
- LC Paper No. CB(1) 425/01-02(01) -- Update on areas of concern raised by members during discussions on SFB and BAB and follow-up actions required from the Administration (Parts I to VII of and Schedules 2, 3, 4, 6, 6A and 6B to SFB)
- LC Paper No. CB(1) 423/01-02(01) -- Information paper on "Efforts of the Securities and Futures Commission in engaging investors" relating to Part II of the Securities and Futures Bill (SFB)
- LC Paper No. CB(1) 423/01-02(02) -- Information paper on Appeals under Part III of SFB)

Action

Members agreed that the Bills Committee would scrutinize the English version of CSA proposed by the Administration. The LegCo Legal Service Division (LSD) was requested to examine the Chinese version of CSA and follow up with the Law Draftsmen on drafting and other technical matters. In the event that there were unresolved issues, LSD would raise them at meetings.

2. The Bills Committee deliberated (Index of proceedings attached at the **Annex**).

Admin 3. The Administration undertook to take follow-up actions in respect of SFB as follows:

- (a) to consider drafting comment in relation to the word “to” at the beginning of clause 5(1);
- (b) to consider whether it would be appropriate to put the titles listed under clause 34(1) to a separate schedule to SFB to facilitate amendment in the future;
- (c) to review the use of the term “issue” and to consider whether it would be appropriate to replace it by “issuing” in various provisions in Part IV;
- (d) to consider where appropriate to replace the word “purposes” by ‘purpose’ in various provisions in Part IV;
- (e) to review the drafting of clause 106(1)(a) and to consider deleting clause 106(1)(b);
- (f) to review the phrases “not capable of being fulfilled” and “not capable of being justified” in clauses 106 and 107;
- (g) to review the phrase "with the result that" in clauses 106 and 107;
- (h) to consider deleting clause 107(1)(b);
- (i) to consult licensed corporations on draft rules on insurance coverage for licensees and to inform them of the new arrangements as early as practicable;
- (j) to consider replacing the word “him” by “his” in clause 120(2)(d);
- (k) to consult the market on other particulars, such as disciplinary sanctions imposed, to be contained in the register on licensed persons and registered institutions under clause 133;
- (l) to review the drafting of clause 161A in relation to the word “notification”; and
- (m) to review the use of “lawful excuse” and related drafting in clause 167.

4. As the Bills Committee had completed scrutiny of CSA on Parts I to VII and the relevant Schedules, members agreed to cancel the meeting scheduled for Thursday, 6 December 2001. The next meeting would be held on Monday, 10 December 2001 at 8:30 am.

II Any other business

5. There being no other business, the meeting ended at 12:45 pm.

Legislative Council Secretariat
19 February 2002

**Proceedings of the meeting of the
Bills Committee on Securities and Futures Bill and
Banking (Amendment) Bill 2000
on Tuesday, 4 December 2001 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
0000-0408	Chairman	Opening remarks & Clauses 1 to 5	
0409-0444	Mr Henry WU	Clause 5 - the term "exempt person"	
0445-0450	Chairman	ditto	
0451-0510	Administration	ditto	
0511-0528	Ms Margaret NG	Timing for consideration of CSA to BAB	
0529-0532	Chairman	ditto	
0533-0634	Ms Audrey EU	Clauses 4 & 5(1) - drafting issue in relation to the word "to" at the beginning of both clauses	Admin
0635-0641	Chairman	ditto	
0642-0715	Administration	ditto	
0716-0839	Ms Margaret NG	ditto	
0840-0855	Ms Audrey EU	ditto	
0856-0925	Chairman	ditto	
0926-1001	Mr Henry WU	Clause 6(2)(c) - the need for fair competition	
1002-1044	Administration	ditto	
1045-1103	Mr Henry WU	ditto	
1104-1119	Chairman	Clause 7	
1120-1122	Mr Henry WU	ditto	
1123-1144	Administration	ditto	
1145-1202	Chairman	Clause 8 - suggestion to set up a statutory Consumer Panel	
1203-1302	Administration	ditto	
1303-1327	Chairman	ditto	
1328-1357	Administration	ditto	
1358-1427	Ms Margaret NG	ditto	
1428-1432	Administration	ditto	
1433-1446	Ms Margaret NG	ditto	
1447-1530	Administration	ditto	
1531-1743	Ms Margaret NG	ditto	
1744-2008	Chairman	ditto	
2009-2032	Ms Audrey EU	ditto	
2033-2046	Chairman	ditto	
2047-2231	Administration	ditto	
2232-2233	Chairman	ditto	
2234-2443	Mr Bernard CHAN	Clause 8 - representativeness of the Securities and Futures Commission (SFC)'s committees	
2444-2522	Administration	ditto	
2523-2530	Chairman	Clauses 9 to 10	
2531-2544	Ms Margaret NG	Clause 11 - reservation on the Chief Executive (CE)'s power to give written directions to SFC	

Time	Speaker	Subject(s)	Action required
2545-2628	Chairman	Clauses 12 to 17 & Schedule 2	
2629-2709	Mr Henry WU	Schedule 2 - casting vote to be made by the chairman of SFC	
2710-2725	Administration	ditto	
2726-2858	Mr Henry WU	ditto	
2859-2929	Administration	ditto	
2930-2945	Chairman	ditto	
2946-3001	Administration	ditto	
3002-3019	Chairman	ditto	
3020-3051	Administration	ditto	
3052-3337	Chairman	Clauses 18 to 22	
3338-3417	Ms Margaret NG	Clause 23(2)(da) - rule-making power of a recognized exchange company to provide for trading of overseas listed securities in the local stock market	
3418-3537	Administration	ditto	
3538-3550	Ms Margaret NG	ditto	
3551-3715	Chairman	Clause 34 - suggestion to put the titles listed to a separate schedule	Admin
3716-3719	Administration	ditto	
3720-3731	Chairman	ditto	
3732-3747	Ms Margaret NG	ditto	
3748-3753	Administration	ditto	
3754-3802	Chairman	Clauses 35 to 76	
3803-3807	Administration	ditto	
3808-3816	Chairman	ditto	
3817-3903	Ms Margaret NG	ditto	
3904-3919	Chairman	ditto	
3920-3922	Ms Margaret NG	ditto	
3923-4348	Chairman	Clause 77 - the structure of the Board of Directors of the Hong Kong Exchanges and Clearing Limited	
4349-4437	Administration	ditto	
4438-4452	Chairman	ditto	
4453-4512	Administration	ditto	
4513-4518	Chairman	ditto	
4519-4529	Administration	ditto	
4530-4557	Mr Henry WU	ditto	
4558-4613	Administration	ditto	
4614-4623	Mr Henry WU	ditto	
4624-4631	Administration	ditto	
4632-4638	Chairman	ditto	
4639-4706	Ms Audrey EU	Clause 61(9) - drafting issue	
4707-4714	Administration	ditto	
4715-4800	Administration	ditto	
4801-4818	Chairman	ditto	
4819-4946	ALA6	ditto	
4947-5020	Chairman	Clauses 78 to 79	
5021-5221	ALA6	Clause 80 - Transfer and resumption of functions of SFC	
5222-5225	Chairman	ditto	
5226-5313	Administration	ditto	
5314-5619	Chairman	Clauses 81 to 98	

Time	Speaker	Subject(s)	Action required
5620-5630	Ms Margaret NG	Clause 98A - Register of authorized automated trading services	
5631-5653	Administration	ditto	
5654-5731	Administration	ditto	
5732-5756	Chairman	ditto	
5757-5825	Administration	ditto	
5826-5830	Chairman	ditto	
5831-5843	Administration	ditto	
5844-5946	Chairman	Clauses 99 to 100	
5947-10027	Ms Margaret NG	ditto	
10028-10041	Chairman	ditto	
10042-10121	ALA6	Clause 101 - definition of "public"	
10122-10130	Chairman	ditto	
10131-10132	Mr Henry WU	Clause 101(1) – the word "engaged" to replace "employed"	
10133-10139	Chairman	ditto	
10140-10813	Ms Margaret NG	Clause 102 & related clauses in Part IV - appropriateness of using the term "issue"; suggestion to replace the term with "issuing"	Admin
10814-10952	Administration	ditto	
10953-11209	Ms Margaret NG	ditto	
11210-11219	Chairman	ditto	
11220-11242	Ms Audrey EU	ditto	
11243-11248	Ms Margaret NG	ditto	
11249-11251	Ms Audrey EU	ditto	
11252-11349	Ms Margaret NG	ditto	
11350-11353	Chairman	ditto	
11354-11404	Administration	ditto	
11405-11409	Ms Margaret NG	ditto	
11410-11419	Chairman	ditto	
11420-11440	Ms Margaret NG	Clause 102(3) - replacement of the term "company" by "corporation"	
11441-11451	Administration	ditto	
11452-11514	Ms Margaret NG	ditto	
11515-11605	Administration	ditto	
11606-11624	Ms Margaret NG	ditto	
11625-11800	Administration	ditto	
11801-11804	Chairman	ditto	
11805-11810	Ms Audrey EU	Clause 102 - appropriateness of the expression "for the purposes of"	Admin
11811-11818	Administration	ditto	
11819-11824	Ms Audrey EU	ditto	
11825-11900	Administration	ditto	
11901-11949	Ms Margaret NG	ditto	
11950-12106	Chairman	ditto	
12107-12130	Mr Henry WU	Clause 102(8) – mere conduit carve-out for a broadcaster	
12150-12220	Administration	ditto	
12221-12249	Chairman	ditto	
12250-12516	Ms Margaret NG	Clauses 106(1)(a)&(b) – suggestion to review drafting	Admin
12517-12629	Administration	ditto	

Time	Speaker	Subject(s)	Action required
12630-12921	Ms Margaret NG	ditto	
12922-12926	Chairman	ditto	
12927-12956	Ms Margaret NG	ditto	
12957-13005	Chairman	ditto	
13006-13008	Ms Margaret NG	ditto	
13009-13022	Chairman	ditto	
13023-13115	Ms Margaret NG	ditto	
13116-13127	Administration	ditto	
13128-13146	Ms Margaret NG	ditto	
13147-13149	Chairman	ditto	
13150-13221	Ms Margaret NG	ditto	
13222-13235	Administration	ditto	
13236-13303	Ms Margaret NG	ditto	
13304-13328	Chairman	ditto	
13329-13345	Ms Margaret NG	ditto	
13346-13399	Chairman	ditto	
13400-13419	Administration	ditto	
13420-13426	Ms Margaret NG	ditto	
13427-13443	Administration	ditto	
13444-13501	Chairman	ditto	
13502-13522	Ms Margaret NG	ditto	
13523-13524	Chairman	ditto	
13525-13529	Ms Margaret NG	Clauses 106 & 107 – appropriateness of the expressions “not capable of being fulfilled” and “not being capable of being justified”	Admin
13630-13637	Chairman	ditto	
13638-13821	Ms Margaret NG	ditto	
13822-13830	Chairman	ditto	
13831-13840	Ms Margaret NG	ditto	
13841-13930	Mr Henry WU	ditto	
13931-14009	Administration	ditto	
14010-14012	Ms Margaret NG	ditto	
14013-14023	Administration	ditto	
14024-14154	Ms Margaret NG	ditto	
14155-14302	Ms Audrey EU	ditto	
14303-14310	Administration	ditto	
14311-14314	Chairman	ditto	
14315-14352	Ms Margaret NG	ditto	
14353-14404	Chairman	ditto	
14405-14429	Mr Henry WU	ditto	
14430-14443	Chairman	ditto	
14444-14450	Ms Margaret NG	Clauses 106 & 107 - appropriateness of the expression "with the result that"	Admin
14501-14515	Chairman	ditto	
14516-14615	Ms Margaret NG	Clause 107(1)(b) of SFB - suggestion to delete the clause	Admin
14616-14649	Mr Henry WU	ditto	
14650-14656	Administration	ditto	
14657-14659	Chairman	ditto	
14700-14845	Ms Margaret NG	ditto	
14846-14849	Administration	ditto	
14850-14913	Ms Margaret NG	ditto	

Time	Speaker	Subject(s)	Action required
14914-14922	Chairman	ditto	
14923-14927	Ms Margaret NG	ditto	
14928-14932	Chairman	ditto	
14933-14943	Ms Margaret NG	ditto	
14944-15000	Chairman	Clause 108	
15001-15019	Ms Margaret NG	ditto	
15020-15055	Chairman	ditto	
15056-15109	Ms Margaret NG	Clause 109 - appropriateness of using the term "issue"; suggestion to replace the term with "issuing"	
15110-15111	Chairman	ditto	
15112-15150	Mr Henry WU	Clause 107 - timing to bring an action against any misrepresented advertisements	
15151-15159	Administration	ditto	
15200-15228	Mr Henry WU	ditto	
15229-15235	Chairman	ditto	
15236-15256	Mr Henry WU	ditto	
15257-15346	Administration	ditto	
15347-15622	Chairman	Clauses 110 to 112	
15623-21130	Break	-	
21131-21312	Chairman	Clause 113 and Schedules 6 & 6A	
21313-21536	ALA6	Clause 114A(2) - restrictions on carrying on business in regulated activities outside Hong Kong	
21537-21659	Administration	ditto	
21660-21752	Ms Margaret NG	ditto	
21753-21833	Administration	ditto	
21834-21900	Ms Margaret NG	ditto	
21901-21944	Administration	ditto	
21945-22038	ALA6	ditto	
22039-22046	Chairman	ditto	
22047-22122	ALA6	ditto	
22123-22147	Administration	ditto	
22148-22205	Ms Margaret NG	ditto	
22206-22418	Administration	ditto	
22419-22432	Ms Margaret NG	ditto	
22433-22526	Administration	ditto	
22527-22617	Ms Margaret NG	ditto	
22618-22654	Administration	ditto	
22655-22717	Ms Margaret NG	ditto	
22718-22730	Administration	ditto	
22731-22736	Ms Margaret NG	ditto	
22737-22746	Administration	ditto	
22747-22819	Chairman	Clause 115(2)(a)(iii) - definition of "corporation"	
22820-22935	Administration	ditto	
22936-23007	Chairman	ditto	
23008-23118	Administration	ditto	
23119-23158	Administration	ditto	
23159-23215	Chairman	ditto	
23216-23324	Mr Henry WU	Clause 115(4) - insurance coverage required for licensed corporations	Admin

Time	Speaker	Subject(s)	Action required
23325-23346	Ms Margaret NG	ditto	
23347-23433	Administration	ditto	
23434-23508	Mr Henry WU	ditto	
23509-23517	Chairman	ditto	
23518-23705	ALA6	Clause 115(2)(a)(iii)(C) - corporations to be licensed for carrying on regulated activities	
23706-23745	Administration	ditto	
23746-23828	Chairman	Clauses 116 to 117	
23829-24010	Mr Henry WU	Clause 118 - concern on dual-regulator approach in governing securities and futures business	
24011-24045	Chairman	ditto	
24046-24150	Ms Margaret NG	Clause 120(2)(d) - replacement of the word "him" with "his"	Admin
24151-24232	Chairman	ditto	
24233-24317	Administration	ditto	
24318-24346	Chairman	Clauses 121 to 126	
24347-24453	Mr Henry WU	Clause 127(2) - concern about illegally obtained information	
24454-24605	Administration	ditto	
24606-24657	Chairman	Clauses 127 to 129	
24658-24800	Chairman	Clauses 130 & 130A - procedures to become a substantial shareholder	
24801-24943	Ms Margaret NG	ditto	
24944-25107	Administration	ditto	
25108-25226	Chairman	Clauses 131 to 132	
25227-25348	Mr Henry WU	Clause 133(7) - on-line register of licensed persons and registered institutions to be maintained by SFC	
25349-25417	Administration	ditto	
25418-25614	Chairman	ditto	
25615-25657	Administration	ditto	
25658-25752	Chairman	Clause 133 - other particulars, such as disciplinary sanctions, to be contained in the register of licensed persons and registered institutions	Admin
25753-25822	Administration	ditto	
25823-25911	Chairman	ditto	
25912-25958	Ms Margaret NG	ditto	
25959-30010	Chairman	Clauses 134 to 135	
30011-30145	ALA6	Clause 136 - prohibitions of use of certain titles	
30146-30319	Administration	ditto	
30320-30414	Mr Henry WU	ditto	
30415-30446	Chairman	ditto	
30447-30503	Administration	ditto	
30504-30614	Ms Margaret NG	ditto	
30615-31013	Chairman	Clauses 137 to 141	
31014-31127	Mr Henry WU	Clause 142 - concern relating to compliance with financial resources rules (FRR)	
31128-31205	Administration	ditto	

Time	Speaker	Subject(s)	Action required
31206-31213	Chairman	ditto	
31214-31238	Mr Henry WU	ditto	
31239-31354	Ms Margaret NG	ditto	
31355-31419	Chairman	ditto	
31420-31506	Mr Henry WU	ditto	
31507-31539	Administration	ditto	
31540-31548	Chairman	ditto	
31549-31603	Mr Henry WU	ditto	
31604-32000	Chairman	ditto	
32001-32055	Mr Henry WU	ditto	
32056-32118	Ms Margaret NG	Clause 156(8) - expenses for audit of a licensed corporation	
32119-32229	Administration	ditto	
32230-32322	Ms Margaret NG	ditto	
32323-32410	Chairman	Clauses 143 to 161	
32411-32429	Mr Henry WU	ditto	
32430-32523	Administration	ditto	
32524-32535	Chairman	ditto	
32536-32620	Ms Margaret NG	ditto	
32621-32817	Administration	ditto	
32818-32924	Ms Margaret NG	ditto	
32925-33012	Administration	ditto	
33013-33053	Ms Margaret NG	ditto	
33054-33204	Ms Audrey EU	Clause 161A - suggestion to review the term "notification"	Admin
33205-33222	Ms Margaret NG	ditto	
33223-33251	Chairman	ditto	
33252-33316	Ms Audrey EU	ditto	
33317-33329	Ms Margaret NG	ditto	
33330-33350	Administration	ditto	
33351-33510	Chairman	Clauses 162 to 166	
33511-33623	Ms Margaret NG	Clause 167 - to review "lawful excuse"	Admin
33624-33658	Chairman	ditto	
33659-33722	Ms Audrey EU	ditto	
33723-33807	Administration	ditto	
33808-33824	Chairman	ditto	
33825-33855	Administration	ditto	
33856-33910	Administration	ditto	
33911-33955	Chairman	Clause 168	
33956-34038	Mr Henry WU	Clause 169 – definition of "representatives of intermediaries"	
34039-34055	Administration	ditto	
34056-34142	Mr Henry WU	ditto	
34143-34152	Administration	ditto	
34153-34340	Ms Margaret NG	ditto	
34341-34401	Administration	ditto	
34402-34450	Ms Margaret NG	ditto	
34451-34540	Administration	ditto	
34541-34554	Chairman	ditto	
34555-34605	Administration	ditto	
34606-34626	Ms Margaret NG	ditto	
34627-34652	ALA6	ditto	
34653-34709	Ms Margaret NG	ditto	

Time	Speaker	Subject(s)	Action required
34710-35113	Chairman	Clause 170 & Schedule 6B	
35114-35218	Ms Margaret NG	ditto	
35218-35353	Chairman	Cancellation of meeting on 6 December 2001; schedule for future meetings	
35353-35400	Ms Margaret NG	ditto	
35400-35428	Chairman	Legislative timetable	

Note: The audio records of the above proceedings are kept at the Legislative Council Library

Legislative Council Secretariat
19 February 2002