

Ref : CB1/BC/4/00

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

**Update on areas of concern raised by members
during discussions on the Banking (Amendment) Bill 2000 and
follow-up actions required from the Administration**

This paper summarizes the major concerns, views and suggestions raised by the Bills Committee on the **Banking (Amendment) Bill 2000** since December 2000. It has updated the list on areas of concern raised by members during discussions on the two Bills (LC Paper No. CB(1) 1379/00-01(01) issued on 29 May 2001 and summarized new issues and concerns raised by members during meetings held from June to October 2001 when the Bills Committee examined the two Bills clause-by-clause.

2. This paper should be read in conjunction with the relevant marked-up versions of the Blue Bill showing the Committee Stage Amendments to be proposed by the Administration which were issued to members in November and December 2001.

Legislative Council Secretariat
7 December 2001

Banking (Amendment) Bill 2000

Date of meetings: 14 September and 5 & 26 October 2001

Clause No.	Concerns/Views/Suggestions	Administration's response or Follow-up by the Administration/Securities and Futures Commission
2 (Section 2(1) of BO)	<p><u>“declaration of exemption”</u></p> <p>The term “exempt AI” seems to imply that AIs are not subject to regulation.</p>	<p>CSAs will be proposed to replace references to “declaration of exemption” by “certificate of registration”; and “exempt AI” by “registered institution” throughout BAB and SFB.</p>
3 (Section 7(2) of BO)	<p><u>Functions of Monetary Authority</u></p> <p>There is a view that the amendments to add paragraph (g) to section 7(2) of BO will unnecessarily enlarge the power of HKMA which may not be related to the regulation of securities business conducted by AIs.</p>	<p>To consider the view.</p>
5 (Sections 58A & 71C) 12 (Section 132A of BO)	<p><u>Disciplinary sanctions and appeal mechanism for AIs and their staff</u></p> <p>There is concern that SFC licensees will be subject to certain disciplinary actions not applicable to AIs and that appeals by AIs will be dealt with by CE in Council instead of SFAT in the case of SFC licensees.</p>	<p>CSAs will be proposed to subject AIs and their securities staff to the same range of sanctions as SFC registrants, e.g. revocation, suspension, prohibition orders, public and private reprimands and fines. All appeals against decisions in respect of regulated activities of</p>

Clause No.	Concerns/Views/Suggestions	Administration's response or Follow-up by the Administration/Securities and Futures Commission
		AIs and their staff will be appealable to SFAT (LC Paper No. CB(1) 1374/00-01 of 29 May 2001).
9 (Section 71D of BO)	<p><u>Appointment of executive officers</u></p> <p>It is unclear from the original drafting whether the requirement for appointing not less than two executive officers is based on each regulated activity or each institution.</p>	To consider amendments.
General	<p><u>"fit and proper" persons as front-line staff for running securities business of AI</u></p> <p>AIs have submitted names of front-line staff engaged in securities business to HKMA since March 2001.</p>	HKMA to provide information.

Abbreviations :

AI	- Authorized institution
BAB	- Banking (Amendment) Bill 2000
BO	- Banking Ordinance
CE	- The Chief Executive
CSA	- Committee Stage Amendments
HKMA	- The Hong Kong Monetary Authority
SFAT	- The Securities and Futures Appeals Tribunal
SFB	- Securities and Futures Bill
SFC	- The Securities and Futures Commission

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