

立法會
Legislative Council

LC Paper No. CB(1)399/01-02
(These minutes have been
seen by the Administration)

Ref: CB1/BC/10/00/2

**Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2001**

**Meeting on
Tuesday, 13 November 2001, at 10:45 am
in the Chamber of the Legislative Council Building**

Members present : Hon Ambrose LAU Hon-chuen, GBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, JP
Hon LEE Cheuk-yan
Hon Eric LI Ka-cheung, JP
Hon Margaret NG
Hon CHAN Yuen-han, JP
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon SIN Chung-kai
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon LEUNG Fu-wah, MH, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Dr Hon David CHU Yu-lin, JP
Hon Abraham SHEK Lai-him, JP

**Public officers
attending** : Miss Susie HO
Deputy Secretary for Financial Services

Mr Raymond TAM
Executive Director (Policy and Development
Division), Mandatory Provident Fund Schemes
Authority

Mr Geoffrey FOX
Senior Assistant Law Draftsman

Ms Lonnie NG
Senior Government Counsel

**Attendance by
invitation**

: The Law Society of Hong Kong

Mr Duncan ABATE
Chairman of the Law Society's Retirement Schemes
Committee

Retirement Schemes Industry Group
*(representing Hong Kong Investment Funds
Association, The Hong Kong Federation of Insurers
and Hong Kong Trustees' Association Limited)*

Mr Douglas NAISMITH
Chairman, Retirement Schemes Industry Group

Mr Edward LAU
Representative, Retirement Schemes Industry Group

Mr Nicholas J. CROUCH
Representative, Retirement Schemes Industry Group

The Hong Kong Retirement Schemes Association

Mr Anthony GRIFFITHS
Secretary

Ms Cynthia CHUNG
Legal Adviser

Clerk in attendance : Miss Polly YEUNG
Chief Assistant Secretary (1)3

Staff in attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Ms Mabel CHAN
Senior Assistant Secretary (1)4

I Confirmation of minutes of meeting

(LC Paper No. CB(1)111/01-02 - Minutes of meeting held on 19 September 2001)

The minutes of meeting held on 19 September 2001 was confirmed.

II Meeting with deputations and the Administration

- (LC Paper No. CB(3)683/00-01 - The Bill
- Ref: G4/38C(2001)IX - LegCo Brief
- LC Paper No. LS98/00-01 - Legal Service Division Report
- LC Paper No. CB(1)732/00-01(06) - Discussion paper provided by the Administration for the meeting of the Financial Affairs Panel on 7.3.2001
- LC Paper No. CB(1)1460/00-01 - Minutes of the Financial Affairs Panel meeting on 7.3.2001
- LC Paper No. CB(1)1739/00-01(02) - Marked-up copy of the Bill prepared by the Legal Service Division
- LC Paper No. CB(1)1739/00-01(03) - Submission from the Law Society of Hong Kong
- LC Paper No. CB(1)43/01-02(02) - Submission from the Hong Kong Retirement Schemes Association
- LC Paper No. CB(1)43/01-02(03) - Submission from Retirement Schemes Industry Group
- LC Paper No. CB(1)2152/00-01 - Submission from the Hong Kong Association of Banks
- LC Paper No. CB(1)43/01-02(01) - Submission from the Deposit Taking Companies Association
- LC Paper No. CB(1)237/01-02(01) - The Administration's consolidated response to the comments raised by the Hong Kong Association of Banks, the Retirement Schemes Industry Group, and the Hong Kong Retirement Schemes Association
- LC Paper No. CB(1)2087/00-01(01) - The Administration's response to the comments raised by the Law Society of Hong Kong
- LC Paper No. LS12/01-02 - An information paper prepared by the Legal Service Division on the nature of powers proposed by clauses 9, 10 and 11 of the Mandatory Provident Fund Schemes (Amendment) Bill 2001
- LC Paper No. CB(1)29/01-02(01) - The Administration's reply to issues

LC Paper No. CB(1)2087/00-01(02) - arising from the Bills Committee meeting on 19.9.2001
Summary of comments/queries raised by the Legal Service Division and the Administration's response)

2. The Committee deliberated (Index of proceedings attached at **Annex A**).
3. Mr Bernard CHAN declared his interest as one of the service providers in the retirement schemes industry.

Admin

4. The Administration has undertaken to take the following actions:

Proposed power for the Mandatory Provident Fund Schemes Authority (MPFA) to impose additional conditions or amend existing ones on an approved trustee or a registered MPF scheme

- (a) Having regard to the concerns expressed by the attending deputations and some members, the Administration will consider amending the proposed provisions in clauses 9, 10 and 11 to the effect that the MPFA must exercise its power to impose additional conditions or amend existing ones on an approved trustee or a registered MPF scheme in a reasonable manner.
- (b) The Administration will provide a paper on the changes contemplated on existing conditions, as well as conditions which MPFA regard as outdated or difficult to be complied with by the service providers. The paper will also provide information on the policy considerations of the existing section 20 of the MPFS Ordinance, and whether it had been contemplated when the said section was enacted that future changes would be necessary for the conditions imposed on approved trustees and registered schemes.

Proposed section 2(a) (iv) and (x) on the definition of "governing rules" and "offering document"

- (c) The Administration will review the proposed definition of "governing rules" and "offering document" in the Bill so that deputations' concerns about the all-inclusive nature of the proposed definitions can be addressed.
- (d) To address concerns about monitoring by more than one authority for the same set of documents (offering documents), the Secretary for Financial Services will consider giving an assurance during the Second Reading debate of the Bill that dual monitoring will not arise.

The Law Society of Hong Kong's views on the proposed definition of "mandatory contribution", "voluntary contribution" and "preserved account"

(e) The Administration will consider the views and where necessary, introduce Committee Stage Amendments.

5. The Committee agreed to hold another meeting to continue discussion with the Administration.

(Post-meeting note: With the concurrence of the Chairman, the next meeting will be held on Monday, 10 December 2001, at 4:30pm in Conference Room A of the Legislative Council Building.)

III Any other business

6. There being no other business, the meeting ended at 12:36pm.

Legislative Council Secretariat
23 November 2001

**Proceedings of the meeting of the Bills Committee on
Mandatory Provident Fund Schemes (Amendment) Bill 2001**

**on Tuesday, 13 November 2001, at 10:45 am
in the Chamber of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
<i>Agenda Item I - Confirmation of minutes of meeting</i>			
000001-000317	Chairman	- Confirmation of minutes of meeting held on 19 September 2001 - Opening remarks	
<i>Agenda Item II - Meeting with deputations and the Administration</i>			
000318-001351	The Law Society of Hong Kong	- Presentation by Mr. Duncan ABATE	
001352-002039	The Hong Kong Retirement Schemes Association	- Presentation by Mr Anthony GRIFFITHS	
002040-002629	Retirement Schemes Industry Group	- Presentation by Mr Edward LAU	
002630-002641	Chairman	- Inviting Administration's response	
002642-002905	Admin	- Proposed section 2(a) (iv) & (x) of the Bill would be reviewed - The powers of Mandatory Provident Fund Schemes Authority (MPFA) under Clauses 9, 10, 11 should be exercised in a reasonable manner	Admin
002906-003121	MPFA	- Justification for empowering MPFA to impose new conditions/amend existing conditions under Clauses 9, 10, 11 and the implications of the proposed provisions on the industry and on scheme members	
003122-003259	Mr Bernard CHAN	- ditto -	
003300-003322	Chairman	- ditto -	
003323-003357	Retirement Schemes Industry Group	- ditto -	
003357-003534	MPFA	- ditto -	
003535-003714	Mr James TIEN Pei-chun	- ditto -	
003716-003928	Admin	- ditto -	

Time	Speaker	Subject(s)	Action required
003929-004030	Mr James TIEN Pei-chun	- ditto -	
004031-004145	Admin	- ditto -	
004146-004233	MPFA	- ditto -	
004234-004314	Mr James TIEN Pei-chun	- ditto -	
004315-004451	Admin	- ditto -	
004452-004714	Miss Margaret NG	- ditto -	
004715-005000	The Hong Kong Retirement Schemes Association	- ditto -	
005001-005139	Retirement Schemes Industry Group	- ditto -	
005140-005236	Miss Margaret NG	- ditto -	
005236-005244	The Hong Kong Retirement Schemes Association	- ditto -	
005245-005317	Miss Margaret NG	- Existing section 20 of the MPFS Ordinance	
005318-005613	Admin	- To provide information on the background for existing section 20 - Applicability of the enforcement power under sections 39(1), 40(1) and 46(a) of Cap.1 - Exercise of proposed powers under Clauses 9, 10, 11 must be reasonable and proportionate	Admin
005614-005754	Miss Margaret NG	- ditto-	
005755-005954	Hon SIN Chung-kai	- Approval for trustees and registration of MPF schemes not subject to any time limit or requirement for renewal	
005955-010142	Admin	- ditto -	
010143-010331	Mr. SIN Chung-kai	- ditto -	
010332-010426	Retirement Schemes Industry Group	- ditto -	
010427-010459	The Hong Kong Retirement Schemes Association	- ditto -	
010500-010600	Admin	- ditto -	
010601-010634	Mr Bernard CHAN	- ditto -	
010635-010814	Mr LEE Cheuk-yan	- Possible consequences/effects on employers and employees if the proposed amendments under	

Time	Speaker	Subject(s)	Action required
		Clauses 9, 10, 11 were deferred/dropped	
010815-011009	Admin	- ditto -	
011110-011126	Chairman	- ditto -	
011127-011327	Retirement Schemes Industry Group	- ditto -	
011328-011423	Law Society of Hong Kong	- ditto -	
011424-011429	Chairman	- ditto -	
011430-011559	Mr Andrew CHENG Kar-foo	- Feasibility of withdrawing Clause 18 from the Bill - Possible inconsistency in standards adopted for reserves necessary to provide investment guarantees for guaranteed funds	
011600-011809	The Hong Kong Retirement Schemes Association	- ditto -	
011810-011915	Retirement Schemes Industry Group	- ditto -	
011916-011932	Mr Andrew CHENG Kar-foo	- ditto -	
011933-012147	Admin	- Intent of Clause 18	
012148-012153	Mr Andrew CHENG Kar-foo	- ditto -	
012154-012722	Admin	- ditto -	
012723-012726	Chairman	- Inviting members' response	
012727-012759	Miss Margaret NG	- Variations contemplated by the Administration if Clauses 9, 10, 11 of the Bill were enacted	Admin to provide information
012800-012855	MPFA	- ditto -	
012856-013017	Miss Margaret NG	- ditto -	
013018-013023	Chairman	- ditto -	
013024-013138	Admin	- Response to the comments raised by members at this meeting	Admin
013139-013201	Chairman	- Inviting ALA3 to advise on the nature of powers proposed by Clauses 9, 10, and 11 of the Bill	
013202-013457	ALA3	- ditto -	
013458-013552	Miss Margaret NG	- Applicability of Cap.1 to MPFS Ordinance	
013553-013911	ALA3	- ditto -	
013912-013931	Miss Margaret NG	- ditto -	
013932-014024	ALA3	- ditto -	

Time	Speaker	Subject(s)	Action required
014025-014100	Miss Margaret NG	- ditto -	
014101-014145	ALA3	- ditto -	
014146-014147	Chairman	- Inviting members' response	
014148-014321	Mr. Bernard CHAN	- The new definition of "governing rules" under Clause 2(a)(iv) of the Bill would invoke dual monitoring by different regulatory bodies	
014322-014408	Admin	- Nature of powers proposed by Clauses 9, 10 and 11 of the Bill	
014409-014423	Chairman	- ditto -	
014424-014518	The Law Society of Hong Kong	- ditto -	
014519-014522	Chairman	- ditto-	
014523-014616	Admin	- Administration to give verbal assurance during the Second Reading debate that no dual monitoring would arise	Admin
014617-014647	Mr James TIEN Pei-chun	- ditto -	
014648-014710	Admin	- ditto -	
014711-014741	Mr James TIEN Pei-chun	- ditto -	
014740-014801	ALA3	- ditto -	
014802-014849	Chairman	- Administration to provide written response on issues discussed at the meeting	Admin
014850-014913	Admin	- ditto -	
014914-014924	Miss Margaret NG	- Outstanding concerns of the Law Society of Hong Kong	
014925-014947	Admin	- ditto -	Admin to provide response
014948-015105	Chairman	- Concluding remarks - Date of next meeting	

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