

**立法會**  
***Legislative Council***

LC Paper No. CB(1) 1785/02-03

(These minutes have been seen  
by the Administration)

Ref : CB1/PL/FA/1

**Panel on Financial Affairs**

**Minutes of meeting held on  
Thursday, 20 March 2003 at 10:45 am  
in the Chamber of Legislative Council Building**

**Members present** : Hon Ambrose LAU Hon-chuen, GBS, JP (Chairman)  
Hon Henry WU King-cheong, BBS, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Hon James TIEN Pei-chun, GBS, JP  
Hon LEE Cheuk-yan  
Hon Eric LI Ka-cheung, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Hon NG Leung-sing, JP  
Hon James TO Kun-sun  
Hon Bernard CHAN, JP  
Hon CHAN Kam-lam, JP  
Hon SIN Chung-kai  
Dr Hon Philip WONG Yu-hong  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, JP  
Hon MA Fung-kwok, JP

**Member absent** : Hon Albert HO Chun-yan

**Public officers  
attending** : **Agenda Item III**

Mr Edmond LAU  
Principal Assistant Secretary for Financial Services  
and the Treasury (Financial Services)

Mr Raymond LI  
Executive Director (Banking Development), Hong  
Kong Monetary Authority

**Agenda Item IV**

Mr Tony MILLER, JP  
Permanent Secretary for Financial Services and the  
Treasury (Financial Services)

Ms Kinnie WONG  
Principal Assistant Secretary for Financial Services  
and the Treasury (Financial Services)

**Attendance by  
invitation : Agenda Item III**

Mrs CHAN WONG Shui, BBS, JP  
Chief Executive, Consumer Council

Mr Ronald John CAMERON  
Head, Trade Practices Division, Consumer Council

**Agenda Item IV**

Mr Andrew SHENG  
Chairman, Securities and Futures Commission

Mr Keith LUI  
Senior Director (Corporate Affairs), Securities and  
Futures Commission

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

**Staff in attendance :** Mr Joey LO  
Assistant Secretary (1)1

Ms Christina SHIU  
Legislative Assistant

---

**I Information papers issued since last meeting**

- (LC Paper No. CB(1) 974/02-03 -- Submission of views from a member of the public on the proposed revisions to the Code of Practice on Consumer Credit Data in relation to the sharing of positive credit data;
- LC Paper No. CB(1) 977/02-03 -- “Mandatory Provident Fund Schemes Statistical Digest -- December 2002”;
- LC Paper No. CB(1) 1023/02-03 -- Report of the Audit Committee of the Securities and Futures Commission on its investigation into certain anonymous allegations; and
- LC Paper No. CB(1) 1122/02-03 -- Hong Kong Monetary Authority Background Brief No. 2: Banking Supervision in Hong Kong)

Members noted that the above four papers had been issued for general information since the last meeting.

**II Date of next meeting and items for discussion**

(LC Paper Nos. CB(1) 1133/02-03(01) & (02))

Regular meeting on 7 April 2003

2. Members agreed to hold the next regular meeting of the Panel on Monday, 7 of April 2003, at 10:45 am to discuss the following items:

(a) Enhancement of regulation on listed companies and corporate governance of companies; and

(b) Proposed amendment to the Resolution of the Land Fund.

3. Members noted that item (a) was proposed by Mr SIN Chung-kai. Representatives from the Administration, the Securities and Futures Commission (SFC), the Hong Kong Exchanges and Clearing Limited (HKEx), market intermediaries, professionals and academics would be invited to give written submission on the subject and attend the meeting to exchange views with members. In order to facilitate discussion, Ms Emily LAU suggested requesting the Administration and the Research and Library Services Division of the Legislative Council to provide information papers on measures and

proposals of overseas jurisdictions in enhancing corporate governance of companies.

Special meeting on 28 March 2003

4. Mr Henry WU remarked that when the Panel discussed the subject "Business environment of the securities brokerage industry in Hong Kong" at the meeting held on 16 January 2003, a motion was passed to urge the Working Group on the Business Environment of the Stockbroking Industry (the Working Group) to re-examine the proposal of introducing a two-tier brokerage commission system, and HKEx to shelve its decision of removing the minimum brokerage commission rate until the proposal had been completely examined. Members also agreed that a special meeting be held before 1 April 2003 to follow-up on the issues. Mr WU enquired about the Administration's progress in following up the Panel's motion.

5. The Clerk advised that she wrote to the Administration on 17 January 2003 requesting follow-up on the motion and seeking advice on the timing for the special meeting. A written reminder was issued on 8 March 2003. The Administration replied in writing on 17 March 2003 that it was premature for the Working Group to report its progress as it was still undertaking consultation with the industry. The Clerk added that she wrote on 18 March 2003 seeking clarification from the Administration on the appropriate timing for the meeting. However, up to this moment, the Administration's reply was still outstanding. As regards the issue on removal of the minimum brokerage commission rate, the Clerk said that the Administration's reply of 17 March 2003 had advised that the Government's stance remained unchanged.

6. Having regard to the Administration's reply, Mr Henry WU urged that a special meeting be held before 1 April 2003 without further delay. However, Mr CHAN Kam-lam opined that to convene a special meeting at this stage to discuss the minimum brokerage commission issue would serve little purpose, as it was unlikely that the Administration and HKEx would change their stance, and it might deliver a false hope to the industry. Mr WU pointed out that the issues in question were not just about the removal of the minimum brokerage commission rate but also about the overall policy of improving the business environment of the stockbroking industry. He stressed that the Administration would be behaving irresponsibly for refusing to take follow-up action on the passed motion. After discussion, members agreed to hold a special meeting on Friday, 28 March 2003, at 4:00 pm to discuss the subject.

*(Post-meeting note: The meeting was subsequently postponed to 5:00 pm on 28 March 2003.)*

### III Consumer protection in the banking sector

(LC Paper Nos. CB(1)1133/02-03(03) & (04) and 1153/02-03(01) & (02))

7. At the invitation of the Chairman, Mrs CHAN WONG Shui, Chief Executive of the Consumer Council (CC), presented her views on the subject. On complaints relating to marketing conduct of banks, Mrs CHAN said that CC was concerned that front-line staff of banks without the necessary training and knowledge had been deployed to sell investment and insurance products to customers. The CC had urged financial institutions to provide necessary training to front-line staff, to put in place proper internal procedures for monitoring and supervising staff, and to give guidance to investors. As regards the question of enhancing protection for consumers, CC preferred to have one authority to administer a general competition law and to provide a general consumer protection law applicable to all markets. In respect of the scheme of sharing positive consumer credit data among banks, while CC welcomed that the industry, regulators, and the Privacy Commissioner for Personal Data (PC) had taken on board some of its suggestions, it hoped that the Administration/PC would consider the recommendations given in paragraph 18 of CC's submission to the Panel.

8. Upon the Chairman's invitation, the Executive Director (Banking Development) of HKMA (ED/HKMA) briefed members by a power-point presentation on the progress made by HKMA and the banking industry to further enhance consumer protection in the banking sector since the Panel last visited the subject in June 2002. ED/HKMA advised that the first self-assessment on compliance with the Code of the Banking Practice (the Code) compiled by banks covering the first six months of the operation of the revised Code (i.e. the period from end 2001 to mid 2002) had achieved good results where over 90 % of the authorized institutions (AI) had reached full compliance with all sections of the Code. As regards new efforts in tackling consumer complaints, HKMA had enhanced the complaint handling mechanism of AIs. The Guideline on Complaint Handling Procedures came into effect in July 2002 requiring all AIs to put in place effective, transparent and efficient procedures for proper handling of customer complaints. The HKMA had also published a leaflet to educate the consumers on what to do in the event they had a complaint to make against an AI. The leaflet advised that a complainant should first try to resolve the complaint through the internal procedures of an AI before lodging it with HKMA, which would admit a complaint only if the AI concerned had failed to respond within a reasonable period of time or when the complainant was dissatisfied with the way the complaint was handled. It was noted that the number of complaints received by HKMA had dropped significantly in the second half of 2002.

Discussion with Members*Role of HKMA in enhancing protection of banking consumers*

9. Ms Emily LAU expressed support for CC's view of providing a comprehensive consumer law and setting up a single authority to administer a general competition law for enhancing protection of consumers in the banking sector. As banks were expanding their business beyond traditional activities to insurance and securities services, given the limited consumer protection role of HKMA, Ms LAU expressed doubt on whether consumers' interests could be properly protected under the current regulatory framework.

10. In response, Mrs CHAN WONG Shui said that while CC appreciated the work of HKMA in enhancing protection for consumers, the existing sectoral regulatory approach under which financial institutions were regulated according to the sectors they belonged to rather than the businesses they engaged had given rise to problems. As financial institutions were expanding their businesses, although different regulators had worked closely in order to ensure consistency in their regulatory approach, in the absence of a general consumer protection law, regulatory gaps would result and the interest of the consumers would not be adequately protected.

11. On concern about the current regulatory regime in the financial services industry, the Principal Assistant Secretary for Financial Services and the Treasury (PAS/FST) pointed out that notwithstanding there were different regulators, such as HKMA, SFC and Commissioner of Insurance, regulators had been cooperating closely in identifying and addressing issues of common concern, as well as developing consistent regulatory standards and approach through establishment of Memorandum of Understanding (MOU) to ensure there would be no regulatory gaps.

12. As regards regulation of banks' activities, the ED/HKMA said that in respect of the conduct of insurance business, HKMA had required banks to ensure that staff selling insurance products were properly qualified and met the requirements stipulated by the Commissioner of Insurance. As for securities business, with the commencement of the Securities and Future Ordinance (SFO) on 1 April 2003, banks would in due course need to register with SFC as "registered institutions" (RI) for carrying out securities business. The HKMA would continue as the front-line regulator supervising banks' businesses in a consolidated basis. The dual regulator approach would avoid regulatory overlaps on the one hand and minimize regulatory gaps on the other.

13. Responding to Mr SIN Chung-kai's enquiry as to whether HKMA would conduct surprise checks on banks in order to ensure compliance with SFC's/HKMA's rules, ED/HKMA advised that while the policy was to ensure the application of the same regulatory standards for SFC licensees on RIs and

that HKMA would continue to pay regular visits to banks, as the conduct of surprise checks would have resources implications, HKMA considered it unnecessary to pursue the proposal as part of the routine supervisory process. He, however, did not rule out the possibility of conducting surprise checks for specific purposes. He added that RIs would be required to ensure their securities staff were fit and proper persons. The HKMA would provide the particulars of these persons in a register available for public inspection on-line.

14. Mr SIN Chung-kai remarked that the Administration had undertaken to the Bills Committee on the Securities and Futures Bill and the Banking (Amendment) Bill 2000 to deploy necessary resources to strengthen the supervision of RIs. As far as he understood, SFC did arrange surprise checks on its licensees to ensure the latter's compliance with rules. Mr SIN opined that HKMA should consider putting in place a similar system for monitoring the activities of RIs. His views were shared by Mr Henry WU. Upon request of Mr SIN Chung-kai, the Administration agreed to check with SFC on the supervision of licensees in this respect.

*(Post-meeting note: The Administration's paper was issued vide LC Paper No. CB(1)1557/02-03 on 29 April 2003.)*

#### *Consumer complaints against financial institutions*

15. Noting that HKMA had introduced a new complaint handling mechanism in July 2002 and since then the number of complaints received by HKMA had declined, Ms Emily LAU asked whether the drop in complaint figures was attributed to implementation of the new mechanism. She also asked whether HKMA had information on the total number of complaints received by banks and the ways they were dealt with in order to give a full picture of the complaints lodged by consumers.

16. As for consumer complaints received by HKMA, ED/HKMA explained that the statistics provided in Annex B of HKMA information paper were compiled under a different basis. The figures for the first and second quarters of 2002 were recorded before the new complaint mechanism was introduced and those for the third and fourth quarters of 2002 were taken after implementation of the new mechanism. As such, the figures for the latter two quarters were not directly comparable with those of the previous two quarters. However, as under the new mechanism a complainant was required to lodge the complaint to the concerned bank first before coming to HKMA, the drop in HKMA complaint statistics in the last two quarters of 2002 might reflect that the bank's mechanism was effective in resolving the majority of complaints.

17. Regarding information on complaints received by banks, ED/HKMA advised that given that banks adopted different definitions on complaint, and some banks only recorded the number of substantiated complaints, the release

of such information might not provide an accurate picture of the situation.

18. Ms Emily LAU re-iterated her concern and remarked that it would be useful for the Administration to provide information on consumer complaints received by banks and give an analysis of cases resolved. Mr SIN Chung-kai further suggested that the Administration should compile a complaint register to record various complaints on financial intermediaries relating to banks received by different regulators of the financial services industry and to submit regular reports to the Panel for proper scrutiny. He opined that the information would shed light on the trend and situation of consumer complaints against banks or banking group.

19. In response, ED/HKMA said that as HKMA and CC released complaint statistics on regular basis, there should be sufficient information on the number and trend of consumer complaints received in the banking sector. As regards Mr SIN Chung-kai's request, PAS(SFT) undertook to liaise with regulators in the financial services industry with a view to providing for members' information a breakdown on the number of complaints the regulators had received against banks.

*(Post-meeting note: The Administration's paper was issued vide LC Paper No. CB(1)1557/02-03 on 29 April 2003.)*

20. Given the latest statistics in consumers complaints received by HKMA, Mr CHAN Kam-lam agreed that it was unnecessary for HKMA to make alternative arrangements for handling complaints for the time being. However, HKMA should continue to monitor the trend and nature of the complaints with a view to devising appropriate follow-up actions.

*Sharing of positive consumer credit data*

21. Ms Emily LAU considered that the proposals for enhancing consumer's interest under the sharing of positive consumer credit data scheme put forward in CC's submission worth pursuing and asked how the Administration would take forward the proposals.

22. On the proposal to clearly define the meaning of "credit review", Mrs CHAN WONG Shui added that a clear definition was necessary to prevent abusive access to consumer credit data by credit providers. The CC proposed that credit providers should only be allowed access to the data when a consumer requested for a review on his credit facilities, or when there was default on the part of the consumer. In this connection, Mr LEE Cheuk-yan stressed the importance of giving the consumers an informed choice and limiting the scope of credit information sharing to only the number of credit cards issued to a consumer and the issuing banks involved.



23. As regards the conditions under which credit providers could access consumer credit data, ED/HKMA said he understood that the revised Code of Practice on Consumer Credit Data would stipulate the necessary conditions. Specifically, the Code required prior notification be given to consumers of intention to access the data for conducting credit reviews on the consumers. The HKMA would issue guideline to banks in this area to ensure their compliance with the Code.

24. On the operation of the credit reference agency, Mrs CHAN WONG Shui said that CC was concerned that the agency, which was currently run as a commercial enterprise, would not adequately protect the interest of consumers. In response, ED/HKMA advised that notwithstanding that the agency was a commercial corporation, its operation was subject to the Code. He added that credit reference agencies in other jurisdictions were also operating as private bodies.

25. Regarding the Administration's responses to CC's proposals for improving the sharing of consumers credit data scheme, PAS/SFT remarked that majority of the proposals were within the purview of PC. Nevertheless, he undertook to co-ordinate with PC and provide members with a consolidated response after the meeting.

*(Post-meeting note: The Administration's paper was issued vide LC Paper No. CB(1)1557/02-03 on 29 April 2003.)*

#### *Other concerns*

26. On protection of interest of small depositors, Mr LEE Cheuk-yan considered it unfair for banks to levy fees on holders of auto-pay accounts with low balance as such account holders were in most cases denied of the choice to choose their bankers. He asked if HKMA could look into the matter and help the small depositors.

27. In response, PAS/SFT said that HKMA was aware of the concern. Banks had been encouraged to provide more flexibility to these account holders to relieve their burden in paying fees. Upon request of Mr LEE Cheuk-yan, PAS/SFT agreed to provide members with information on the policies, arrangements, or practices of banks in helping these account holders.

*(Post-meeting note: The Administration's paper was issued vide LC Paper No. CB(1)1557/02-03 on 29 April 2003.)*

#### **IV Securities and Futures Commission Budget for 2003-04** (LC Paper No. CB(1) 1133/02-03(05))

28. Upon invitation by the Chairman, Mr Andrew SHENG, Chairman of SFC, briefed the Panel on the main features of SFC Budget for 2003-04. On the revised estimates for 2002-03, Mr SHENG advised that despite a fall on the revenue attributed by the lower than expected market turnover and the income from fees and charges, as a result of various stringent cost control measures introduced over the year, SFC had managed to reduce the estimated deficit to \$59 million, which was only half of the forecast amount of \$117.6 million estimated in March 2002. As for the proposed estimates for 2003-04, Mr SHENG advised that given the uncertain market conditions, besides continuing with the various stringent cost control measures, SFC would cut back capital expenditure. The estimated revenue for 2003-04 was \$339.9 million, while the estimated operating expenditure was \$407.9 million. Coupled with a depreciation of \$25.4 million, there would be an estimated deficit of \$93.3 million for 2003-04. Despite this, SFC had for the eleventh consecutive year resort not to seek a government grant but to absorb the deficit by its reserves. To conclude, Mr SHENG emphasized that the Commission's top priority in 2003-04 was to ensure a successful roll-out of the SFO, and a smooth transition to the new regulatory framework with particular focus on the implementation of the dual filing system and exercising the new power under the SFO to tackle corporate crime and misconduct in the securities and futures market.

29. The Permanent Secretary for Financial Services and the Treasury (Financial Services) supplemented that the Administration had examined SFC Budget for 2003-04 and was satisfied that SFC had made all efforts to reduce expenditure without undermining the delivery of its services or performance of its regulatory function.

#### Discussion with Members

##### *Relocation of SFC office*

30. Ms Emily LAU sought details on the need for SFC to relocate its current office, and the estimated expenses involved. Noting that SFC would move to the Chater House, Ms LAU doubted whether the relocation would result in savings in rental as the new accommodation was in a high-grade office building.

31. In response, Mr Andrew SHENG explained that the office removal was imminent as SFC was informed by the existing landlord in early 2003 to move out from the current premises in the Landmark by end of June 2003. Hence, SFC had only six months to plan for the massive removal exercise involving all

staff. There was also the need to avoid compensating the existing landlord if the removal was not effected in time. The SFC had duly taken all these factors into consideration and had done its best in seeking new accommodation and negotiating for the best terms in the new rental contract. The SFC had provided \$21 million to cover the cost relating to office relocation including fitting out works. While it would be inappropriate for SFC to reveal the rental of the new office due to commercial sensitivity of the information, it was estimated that the new accommodation would achieve at least a 10% savings on rental for SFC. In this connection, Mr SIN Chung-kai remarked that the 10% rental savings was too modest in view of the tremendous decline in rentals for the majority of office premises.

*Personnel expenses for 2003-04*

32. In response to Ms Emily LAU's enquiry about the increase in personnel expenses in 2003-04 despite SFC's continued effort to freeze staff salaries and to control recruitment and replacement, Mr Andrew SHENG explained that the 6.4% increase on staff cost was mainly due to the full year effect of staff recruited, and the additional posts to fulfil the new dual filing duty the cost of which would be recovered from HKEx.

33. On the salary levels for staff, Ms Emily LAU asked whether there would be room for further reduction while remained competitive with the private market. In reply, Mr Andrew SHENG said that according to a recent review of SFC, SFC's salary levels were generally in line with the market trend. He re-iterated that SFC would continue to freeze salaries and to control staff recruitment in 2003-04. New recruits would normally be remunerated at the lowest pay points of their respective salary scales.

34. Noting that about 80% of SFC's recurrent expenditure was related to staff expenses, Mr Henry WU asked if SFC had considered the recommendations of the Hay Group Consultancy Study commissioned by the Government in 2002 to examine the remuneration of senior executives of selected statutory bodies. In view that the Hay Group Report had revealed that the salary levels of the majority of positions reviewed had exceeded the market medians for at least 10% - 15%, Mr WU asked whether SFC would take action to reduce the salaries of its staff. Mr WU noted that there had been only a reduction of 8% in the salary of SFC Chairman.

35. In response, Mr Keith LUI, Senior Director of SFC advised that SFC had studied the findings of the Hay Group Report with regard to the existing salary levels of SFC staff. It was found that the salaries for the top three levels of SFC executives were within the prescribed salary bands of the Hay Group Report. The SFC had accepted the recommendations of the Hay Group Report and was taking necessary action in following up the recommendations and making progress report to the Administration. He added that SFC would

make reference to salary medians prescribed in the Hay Group Report in revising the salaries of SFC senior executives. Moreover, starting from 2002-03, SFC would disclose the salary levels of the top three levels of executives as recommended by the Hay Group Report in its annual report.

36. With regard to Mr Henry WU's enquiry as whether there would be adjustment in the salaries for other levels of staff and those employed on permanent basis, Mr Keith LUI said that, as far as permanent staff was concerned, any salary reduction would have to be negotiated with the staff concerned and could not be effected without their consent. Mr LUI added that since the removal of the variable pay in 2001-02, the take-home pay for the vast majority of SFC staff had actually reduced by 8%.

37. Mr Henry WU opined that the salary adjustment mechanism of SFC was even more inflexible than that of the civil servants. To enable members to understand the measures taken by SFC in reviewing the salaries of staff, the Chairman requested SFC to provide information on salaries review measures for staff of different levels, grades, ranks, and employment terms (i.e. permanent or contract basis), as well as details of the comparison of salaries with those of the private market.

*(Post-meeting note: The Administration's paper was issued vide LC Paper No. CB(1)1542/02-03 on 28 April 2003.)*

#### *Estimated revenue for 2003-04*

38. Mr Henry WU expressed concern that due to the present sluggish market and the increasingly difficult business environment in the stockbroking industry, a large number of small and medium sized brokerage firms would be eventually forced to wind up. As such, Mr WU considered that the estimated revenue of \$339.9 million for 2003-04 was over optimistic. He further requested for a breakdown of the estimates by various sources, including the estimated income on fees and charges from licensees and registered institutions, income on corporate finance, as well as information on the bases and assumptions made in working out the estimates. As regards the estimated income of \$20 million from HKEx for SFC in performing the new dual filing duty, Mr WU also requested for a breakdown on how the sum would be spent. The SFC undertook to provide the information after the meeting.

*(Post-meeting note: The Administration's paper was issued vide LC Paper No. CB(1)1542/02-03 on 28 April 2003.)*

39. While expressing support for SFC Budget for 2003-04 in general, Mr SIN Chung-kai considered that the estimated revenue was a bit optimistic in view of the uncertainties in the market thus affecting the income from levies and fees and charges. Hence, he supported that SFC should continue with its

course in containing growth and expenditure, in particular, to explore the possibility of further reduction in staff salaries.

**V Briefing on the legislative proposals on the Companies (Amendment) Bill 2003**

(LC Paper No. CB(1) 1133/02-03(06))

40. As the meeting had over-run and there would not be sufficient time to discuss the above item, members agreed to defer discussion on the item to the next meeting.

**VI Any other business**

41. There being no other business, the meeting ended at 12:50 pm.

Council Business Division 1  
Legislative Council Secretariat  
27 May 2003