

立法會
Legislative Council

LC Paper No. CB(1)1702/02-03

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by the Administration)

Ref : CB1/PL/FA/1

Panel on Financial Affairs

**Minutes of special meeting held on
Friday, 28 March 2003 at 5:00 pm
in Conference Room A of Legislative Council Building**

Members present : Hon Ambrose LAU Hon-chuen, GBS, JP (Chairman)
Hon Henry WU King-cheong, BBS, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Hon NG Leung-sing, JP
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 MA Fung-kwok, JP

Members absent : Hon Kenneth TING Woo-shou, JP
Hon LEE Cheuk-yan
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon James TO Kun-sun
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP

Public officers attending : Financial Services and the Treasury Bureau

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

- Attendance by invitation** : Securities and Futures Commission
Mr Leo LEE
Director, Corporate Planning
Hong Kong Exchanges and Clearing Limited
Mr Lawrence FOK
Deputy Chief Operating Officer
- Clerk in attendance** : Ms Connie SZETO
Chief Assistant Secretary (1)4
- Staff in attendance** : Ms Pauline NG
Assistant Secretary General 1
Mr Joey LO
Assistant Secretary (1)1
Ms Christina SHIU
Legislative Assistant

Action

I Business environment of the securities brokerage industry in Hong Kong

(Relevant papers:

LC Paper Nos. CB(1) 707/02-03(03), 707/02-03(04), 733/02-03(02), 733/02-03(03), 747/02-03(02), 747/02-03(03), 747/02-03(04), 747/02-03(05), 756/02-03, 1007/02-03, 1090/02-03 and 1211/02-03 issued in relation to the meeting held on 16 January 2003)

The Chairman advised that this item was discussed at the special meeting held on 16 January 2003 at which the Panel passed a motion urging 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 the Hong Kong Exchanges and Clearing Limited (HKEx) to shelve its decision of removing the minimum brokerage commission rate until the proposal had been completely examined. The Panel also agreed that a special meeting be held before 1 April 2003 to follow-up on the issues.

2. The Chairman informed that the Administration had not provided any information paper for this meeting. At the Chairman's invitation, the Clerk briefed members on the actions taken by the Legislative Council (LegCo) Secretariat in following up on the passed motion as follows:

- (a) The Administration was requested in writing on 17 January 2003 to take follow-up action on the passed motion and to advise on the timing for the special meeting to re-visit the issues. It had also been asked to provide a copy of the letter from the Secretary for Financial Services and the Treasury (SFST) of 14 January 2003 to the Chairman of HKEx on the subject of "minimum brokerage commission rate". Since then, the Administration had been verbally reminded on the matter on a number of occasions.
- (b) The Administration provided the copy of SFST's letter on 8 March 2003 which was issued to members on 10 March 2003.
- (c) A written reminder was sent to the Administration on 8 March 2003. The Administration responded 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.
- (d) The LegCo Secretariat wrote to the Administration on 18 March 2003 seeking advice on the appropriate timing for the special meeting.
- (e) At the regular meeting held on 20 March 2003, the Panel agreed to hold a special Panel meeting on 28 March 2003 to follow up on the matter. Written invitation was sent to the Administration on the same day to request for provision of an information paper before noon of 25 March 2003.
- (f) After repeated discussions with the Administration, it advised on 26 March 2003 that no information paper would be provided for the meeting and that a verbal report would be made on the progress of the Working Group at the meeting. Members were informed of the Administration's position on 27 March 2003.

Discussion with Members

3. Mr Henry WU expressed strong disappointment towards the ways the Administration had followed up the matter, which in his view, had reflected a play of delaying tactics and disrespect to the Panel. As regards the passed motion, Mr WU was most concerned about whether the Working Group had incorporated the re-examination of the two-tier brokerage commission system

into its terms of reference and whether the HKEx had considered the Panel's request to shelve its decision of removing the minimum brokerage commission rule.

4. Sharing Mr Henry WU's grave concern about the abolition of the minimum brokerage commission rule, Dr Philip WONG remarked that the move would not be conducive to enhancing the competitiveness and quality of the financial services industry of Hong Kong.

5. While expressing support on liberalization of the minimum brokerage commission rate system as the move would be in the public interest, Mr SIN Chung-kai asked what concrete measure the Working Group had devised to help the stockbroking industry to enhance its competitiveness.

Abolition of the minimum brokerage commission rule

6. As regards the HKEx's decision to remove the minimum brokerage commission rule, Mr Lawrence FOK, Deputy Chief Operating Officer of HKEx said that the Board of Directors of HKEx (the Board) endorsed in May 2000 to effect the proposal to abolish minimum commission on 1 April 2002. In the light of market conditions and Government's view, the Board decided in February 2002 to defer abolition of the rule to 1 April 2003. Mr FOK stressed that after having considered all relevant factors and the Administration's views as contained in SFST's letter of 14 January 2003 emphasizing that liberalization of the commission rate would be in the best interests of the public, the Board affirmed the decision at its meeting on 15 January 2003 to effect the proposal with effect from 1 April 2003. Mr FOK further confirmed that the Chairman and Chief Executive of HKEx had noted the motion passed by the Panel. However, as there were no other views received that ought to be considered, HKEx had not changed its decision on this matter. Mr FOK added that the Board had acted in accordance with the Exchanges and Clearing Houses (Merger) Ordinance (Cap. 555), which required the HKEx to act in the interests of the public.

Progress of the Working Group and two-tier commission rate system

7. In response, the Principal Assistant Secretary for Financial Services and the Treasury (PAS/FST) said that the Working Group, established by SFST in mid January 2003, was chaired by the Deputy Secretary for Financial Services and the Treasury, to examine ways to assist the stockbroking industry, in particular the small and medium sized brokerage firms, to strengthen their competitiveness in the current business environment. According to its work schedule, the Working Group would complete its work and submit recommendations to SFST in three months' time by mid April 2003. On the progress of the Working Group, PAS/FST advised that the Working Group had commenced work immediately since mid-January 2003 and had been meeting relevant industry associations and organizations relentlessly to gauge their

views and suggestions for improving the business environment of the stockbroking industry, to enhance the competitiveness of small and medium sized brokers, to minimize their burden in complying with the new regulatory requirements under the Securities and Futures Ordinance (SFO), as well as to offer training opportunities for industry participants. As the Working Group had just completed the second round of meetings with the industry representatives in late March and commenced drafting the recommendations, PAS/EST apologized for not being able to provide members with a written interim report at this stage.

8. As regards the Panel's suggestion for the Working Group to examine the proposal of introducing a two-tier brokerage commission system, PAS/EST said that the Working Group had deliberated the proposal with all the five industry associations. She stressed that it was more important that the Working Group had studied the proposal with the industry and that incorporation into the terms of reference was but a procedural formality. The Working Group had received divergent views from the industry on the proposal. Some market players pointed out that a "tiered commission rate system" was de facto in existence as evidenced by the different commission rates charged by brokerage firms. The situation was also confirmed by a survey conducted by the Consumer Council in February 2003 indicating that the minimum commission rate was negotiable and subject to bargaining between brokers and investors. On the other hand, those members of the industry advocating the two-tier commission rate system had suggested different transaction values below which minimum commission rate should be applied. The Working Group was of the view that the proposal would not be conducive to enhancing the competitiveness of the industry. On the contrary, liberalization of the commission rate would in fact provide brokers with greater flexibility in determining their pricing strategies and offer investors with wider choices of services and service providers.

9. Mr Henry WU remained unconvinced of the Government's argument and stressed that the two-tier commission rate system was a viable option important for the survival of small and medium sized brokers. He further referred to the results of his opinion poll conducted in mid February 2003, which indicated that out of the 183 respondent firms, 99% were in favour of the two-tier system with 88% supported setting \$ 1 million as the transaction value below which minimum commission rate of 0.25% should apply. The findings suggested that the Administration should reconsider the proposal.

10. In response, PAS/EST said that the Working Group had made reference to the poll results in the deliberation of the two-tier commission rate system proposal but noted that there was no general consensus within the industry on the proposal. She stressed that the Working Group would give due consideration to the proposal and set out its views in the report.

11. Mr Henry WU re-iterated that under the current sluggish business environment, it was more important to revitalize the market. However, the abolition of the minimum commission rate system was moving in the opposite direction. He was disappointed that the industry's proposal of introducing a two-tier commission rate system was refused by the Administration. Furthermore, Mr WU opined that the dual regulator approach enshrined under the SFO would be unfair to the stockbroking industry and fail to maintain a level playing field between brokers and banks. With the imminent commencement of the SFO on 1 April 2003, he regretted that no concrete measures were available to help small and medium sized brokers. The stockbroking industry was facing a lot of uncertainties and there were concerns about difficulties for brokers to understand and comply with the new regulatory requirements.

12. Mr Jasper TSANG remarked that it was necessary for the Government to clarify the role of small and medium sized brokers in the future development of Hong Kong financial market and to understand the problems they were facing so that a comprehensive package could be devised to help these brokers.

13. Mr James TIEN agreed that the small and medium sized brokers had a definite role to play, in particular in servicing small investors. He considered that the presence of both large brokerage firms and small and medium sized brokers would best suit the needs and characteristics of Hong Kong financial market. He shared the small and medium sized brokers' concern about abolition of the minimum commission rate system and urged the Government to come up with concrete measures to help these brokers.

14. In reply, PAS/EST reassured that the Administration had recognized the contribution made by small and medium sized brokers to the development of the Hong Kong financial market. The Administration's policy was to provide a conducive business environment for small and medium sized brokers to continue to operate while maintaining a level playing field with large scale market players. The Administration was committed to assisting small and medium sized brokers as evidenced in the deliberation of the SFO in the past two years. In the course of scrutinising the legislative proposals and the subsidiary legislation under the SFO, the Administration has observed, and members of the Bills Committee agreed, the principle of facilitating compliance by market participants and minimizing their cost of compliance. PAS/EST said that the Working Group was fully aware of the current difficulties faced by these brokers, such as competition from banks, promotion of a diversified range of new financial products, enhancement in the quality and expertise of market practitioners; and re-iterated that the Working Group was examining concrete proposals in improving the business environment of the stockbroking industry and would put forward its recommendations in mid April 2003. She added that small and medium sized brokers had a competitive edge over their larger counterparts as their services were convenient, equally

professional yet more personalized. Liberalization of the minimum commission rate system would sharpen brokers' competitive edge even further as they would have more flexibility in attracting more customers through different pricing strategies.

15. On concerns about possible compliance burden on brokers upon commencement of the SFO, Mr Leo LEE, Director, Corporate Planning, SFC stressed that SFC was mindful of the need to reduce compliance burden on brokers. The new regulatory regime under the SFO would be simplified without compromising investor protection. Examples were the introduction of a single licensing system under which licensed corporations and individual representatives could engage in multiple regulated activities with one licence, and the issuance of provisional licences to allow individual representatives to conduct business pending process of their applications.

Provision of information paper for the Panel

16. Mr Henry WU was dissatisfied that the Administration had not provided an information paper to facilitate members' discussion at the meeting. It was also unacceptable that the Administration had taken more than one and a half months to provide the copy of SFST's letter to HKEx.

17. PAS/FST reassured that the Working Group was working with due respect to the Panel's passed motion. She suggested that a verbal report at this meeting and the record of discussion would serve the purpose of an interim report to the Panel.

18. On provision of information papers for Panel meetings, the Assistant Secretary General 1 (ASG1) remarked that there was a standing arrangement for the Administration to provide information papers to facilitate members' discussion at Panel meetings. She stressed that the arrangement had been adhered to without exceptions, and from past experience the Administration had been able to provide information papers for urgent meetings with very short notice. For this particular meeting, the LegCo Secretariat had taken all requisite steps to alert the Administration in January and March 2003 that there would be a special meeting to be held before 1 April 2003. The Administration should have ample time to prepare a paper. ASG1 further stressed that a verbal report at the meeting, though put on record, was no substitute for an information paper. In the absence of a paper before the meeting, members were deprived of the opportunity to prepare for the discussion of the item at the meeting, including consulting their constituents or affected parties on the subject beforehand.

19. Mr Henry WU also registered his strong discontent towards the Administration on behalf of the stockbroking industry. The Chairman concluded that he would write to SFST to draw his attention to the matter.

(*Post-meeting note:* The Chairman's letter and SFST's reply were circulated to members vide LC paper No. CB(1) 1440/02-03 on 14 April 2003.)

20. There being no other business, the meeting ended at 6:40 pm.

Council Business Division 1
Legislative Council Secretariat
16 May 2003