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# Legislative Council Panel on Financial Affairs

## *Clearing and Settlement Systems Bill*

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*5 May 2003*



HONG KONG MONETARY AUTHORITY  
香港金融管理局

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## Objectives of the Bill

- to introduce statutory oversight of important clearing and settlement systems (CSS) for funds or securities
- to confer certainty of settlement finality for such CSS



# MA's oversight role (I)

- MA acting as a de facto overseer for:

	Daily turnover in 2002
HKD CHATS	HKD 327 bn
USD CHATS	HKD 41 bn
Settlement of paper cheques (cheque clearing)	HKD 15 bn
Central Moneymarkets Unit (CMU)	HKD 60 bn
Cash settlement leg for Central Clearing and Settlement System (CCASS)	HKD 17 bn



## MA's oversight role (II)

- Indirectly derived from:
  - Exchange Fund Ordinance
  - MA's shareholding in the Hong Kong Interbank Clearing Ltd (HKICL)
  - contractual obligations
- Needs to provide express statutory backing (as recommended by IMF in its Financial Sector Assessment Programme 2002)

# Settlement finality

- Protection against reversal of transactions cleared and settled through CSS arising from insolvency proceedings
- Reversal of settled transactions will cause destabilising impact on the monetary or financial stability of Hong Kong
- Legal certainty to protect CSS transactions from possible challenges in insolvency proceedings
- Recommended by IMF and sought by CLS (an international clearing and settlement system for foreign exchange transactions)



# Overview of the Bill (I)

- CSS may be designated to be subject to the oversight regime if any disruption or inefficient functioning of such system may have a destabilising impact on the monetary or financial stability of Hong Kong, or may have an adverse effect on the functioning of Hong Kong as an international financial centre.



# Overview of the Bill (II)

- CSS oversight to ensure:
  - Safety:
    - certainty of settlement
    - reliability and robustness of operation
    - proper security control and data integrity
  - Efficiency:
    - access by market participants and competition related issues



# Overview of the Bill (III)

- Appeals
  - an independent tribunal will be set up to hear appeals on MA's decisions under this ordinance such as designation and revocation



# Securities settlement under CCASS

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- The Bill will not apply to CCASS settlements which are governed by a separate ordinance -  
Securities and Futures  
Ordinance



# Impact on insolvency proceedings

- A liquidator is not prevented from pursuing assets, or a court from afterwards making an order, in respect of the underlying disposition of assets between members of the designated system and/or their customers, provided this does not lead to any revocation or reversal of the relevant transaction or disposition through the designated system.



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**End**

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