

CB(1)1669/04-05(01)

By fax and by post
(fax: 2121-0420)

27th May 2005

Clerk to Bills Committee
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Attn: Ms. Rosalind Ma
for Clerk to Bills Committee

Dear Sirs,

Re: Comments on Securities and Futures (Amendment) Bill 2005

I refer to your letter dated 23rd April 2005.

I am pleased to enclose herewith a copy of the views of the Bar on the Securities and Futures (Amendment) Bill 2005 for your consideration, which has been endorsed by the Bar Council at its meeting held on 26th May 2005.

Yours sincerely,

Philip Dykes SC
Chairman

/al
Encl.

Hong Kong Bar Association

Comments on Securities and Futures (Amendment) Bill 2005

1. The Bar supports the separation of the role of the Chairman of the Securities and Futures Commission (SFC) from that of the executive arm of the SFC.
2. The Bar is of the view that it is increasingly common for the chairman of a public body to assume a non-executive and independent office and to be separate from the chief executive officer. Such separation should result in increased objectivity and independence on the part of the chairman and enhance internal checks and balances within a statutory public body such as the SFC.
3. On the specific provisions of the Bill, the Bar only comment is that under clause 3(e) of the Bill, which introduces a new section 4A into Part 1 of Schedule 2 to the Ordinance, the office of chief executive officer is created, which is to be appointed by the Chief Executive of the HKSAR. However, because the existing provisions relating to a deputy and the filling of vacancies are all to be preserved for the office of chairman, there will be no provision for the appointment of a deputy chief executive officer and no provision relating to vacancies in the office of chief executive officer. It is not clear whether this is an intentional or accidental omission, and it is not clear what is supposed to happen to the office where vacancies arise.

27th May 2005

