

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1255/05-06  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/13/04

**Bills Committee on Financial Reporting Council Bill**

**Minutes of the eleventh meeting held on  
Friday, 24 February 2006, at 8:30 am  
in Conference Room A of the Legislative Council Building**

- Members present** : Hon TAM Heung-man (Chairman)  
Hon Albert HO Chun-yan  
Hon CHAN Kam-lam, SBS, JP  
Hon SIN Chung-kai, JP  
Hon Emily LAU Wai-hing, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Ronny TONG Ka-wah, SC
- Members absent** : Dr Hon LUI Ming-wah, SBS, JP  
Hon Bernard CHAN, JP  
Dr Hon Philip WONG Yu-hong, GBS
- Public officers attending** : Mr Albert LAM  
Deputy Secretary for Financial Services and the Treasury  
(Financial Services)
- Mr Alan LO  
Principal Assistant Secretary for Financial Services and the  
Treasury (Financial Services)
- Mr Jackie LIU  
Assistant Secretary for Financial Services and the Treasury  
(Financial Services)

Mr Gordon JONES, JP  
Registrar of Companies

Mr Lawrence PENG  
Senior Assistant Law Draftsman  
Department of Justice

Miss Selina LAU  
Government Counsel  
Department of Justice

**Clerk in attendance :** Miss Salumi CHAN  
Chief Council Secretary (1)5

**Staff in attendance :** Mr KAU Kin-wah  
Assistant Legal Adviser 6

Ms Connie SZETO  
Chief Council Secretary (1)6

Mr Justin TAM  
Council Secretary (1)3

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- I. Confirmation of minutes of meetings**
- |                              |   |   |
|------------------------------|---|---|
| (LC Paper No. CB(1)961/05-06 | — | Minutes of eighth meeting held on 12 January 2006 |
| LC Paper No. CB(1)962/05-06  | — | Minutes of ninth meeting held on 23 January 2006) |

The minutes of the two meetings held on 12 and 23 January 2006 respectively were confirmed.

**II. Meeting with the Administration**

(LC Paper No. CB(1)963/05-06(01)

— “Follow-up to the tenth meeting on 10 February 2006” prepared by the Legislative Council Secretariat

LC Paper No. CB(1)963/05-06(02)

— Paper provided by the Administration on “Follow-up actions arising from the meeting held on 10 February 2006”

LC Paper No. CB(1)866/05-06(02)

— Paper provided by the Administration on “Follow-up actions arising from the meeting held on 12 January 2006”

LC Paper No. CB(1)866/05-06(04)

— Paper provided by the Administration on “Follow-up actions arising from the meeting held on 23 January 2006”

LC Paper No. CB(1)665/05-06(08)

— Paper provided by the Administration on “Component Four — Miscellaneous matters”

LC Paper No. LS27/05-06

— “Note on the statutory Informer Protection Provision relating to the Independent Commission Against Corruption” prepared by the Legal Service Division of the Legislative Council Secretariat

LC Paper No. CB(1)665/05-06(09)

— Paper provided by the Administration on “Component Five — Consequential and related amendments”

LC Paper No. CB(1)166/05-06(03)

— Paper provided by the Administration on “Summary of submissions and Administration’s responses”)

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

(*Post-meeting note:* Section 42 of the Interpretation and General Clauses Ordinance tabled at the meeting was issued to members vide LC Paper No. CB(1)990/05-06(01) on 27 February 2006.)

Follow-up actions to be taken by the Administration

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3. At the request of the Bills Committee, the Administration agreed to take the following actions:

Disciplinary provisions under the Professional Accountants Ordinance (PAO) (Cap. 50)

- (a) The Administration undertook to propose Committee Stage amendments (CSAs) to the relevant provisions of the PAO to empower the Hong Kong Institute of Certified Public Accountants (HKICPA) to discipline its members who had failed to comply with an information-gathering requirement imposed by the Audit Investigation Board (AIB) or a Financial Reporting Review Committee (FRRC) in the investigations or enquiries (paragraph 5 of LC Paper No. CB(1)963/05-06(02)).
- (b) The Administration undertook to convey to the HKICPA and the future FRC members' suggestion of putting in place administrative arrangements for the Financial Reporting Council (FRC) to inform the HKICPA of non-compliance of accountants with the information-gathering requirement of the AIB or a FRRC so as to facilitate the Institute to initiate appropriate disciplinary actions (paragraph 6 of LC Paper No. CB(1)963/05-06(02)).

Post-enquiry actions of a FRRC

- (c) The Administration was requested to improve the drafting of the proposed CSA to clause 49(1) (Annex B to LC Paper No. CB(1)963/05-06(02)), taking into consideration members' suggestions, as follows:
  - (i) To replace the proposed formulation "... there is or may be a question whether or not ..." in the English text of the draft proposed CSA by the formulation "... there is, or may be, a question whether or not ..."; and
  - (ii) To recast the Chinese text of the draft proposed CSA so as to facilitate readers' understanding and to start the first sentence with "如財務匯報局覺得就某上市實體 .....".

Protection of informers' identity

- (d) Having noted members' views and suggestions expressed at the meeting held on 10 February 2006 regarding the need to provide separate provisions in the Bill on "Protection of informers" (item 10 of LC Paper No. CB(1)963/05-06(01)), the Administration undertook to revert to the Bills Committee as soon as practicable.

Clause 51 — Preservation of secrecy

- (e) Members noted the Administration's draft proposed CSAs to clause 51(3)(b)(ix) and (3)(c) (Annex C to LC Paper No. CB(1)963/05-06(02)) to address the concerns about the disclosure of information to the Official Receiver (OR) for him to perform the statutory duties of his two roles, i.e. the statutory duties as OR other than in the capacity of a liquidator/provisional liquidator under the Companies Ordinance (Cap. 32), and the statutory duties as OR in the capacity of a liquidator/provisional liquidator. The Administration was requested to consider and respond to some members' further views and suggestions, as follows:
- (i) There were two major considerations for deciding the parties to which the FRC might disclose information: Information should only be disclosed on a "need-to-know" basis, and the disclosure would not give the parties receiving the information an unfair advantage over others;
  - (ii) It was unclear why it was necessary for the FRC to disclose information to a liquidator/provisional liquidator of a listed entity which was the subject of its investigation or enquiry. The disclosure of information, particularly during the investigation or enquiry stage, might give the liquidator/provisional liquidator an unfair advantage over others and jeopardize the interest of the entity concerned;
  - (iii) It was unclear from the draft proposed CSAs to clause 51(3)(c) whether the FRC might, apart from disclosing information to the liquidator/provisional liquidator of a listed entity which was the subject of its investigation or enquiry (Company A), also disclose information to other liquidators/provisional liquidators. If the FRC might do so, it might disclose information about the investigation or enquiry to the liquidator/provisional liquidator of a creditor of Company A (Company B). The information might enable the liquidator/provisional liquidator of Company B to take swift action to recover assets from Company A, thus giving the liquidator/provisional liquidator an unfair advantage over other creditors of Company A. The policy intent in this regard was

unclear and should be clarified; and

- (iv) From the drafting of the proposed CSAs to clause 51(3)(b) and (3)(c), it seemed that the FRC might disclose any information to the OR or liquidators/provisional liquidators. There should be some restrictions on the scope of disclosure.

Clause 52 — Avoidance of conflict of interests

- (f) The Administration undertook to propose a CSA to clarify that the term “interest” in clause 52(3)(a) meant interest in securities or a collective investment scheme.
- (g) Members stressed the importance of putting in place a stringent interest disclosure regime to avoid conflict of interests. In this connection, the Administration was requested to consider and respond to the views and suggestions expressed by some members, as follows:
  - (i) Details about the FRC’s interest disclosure regime, such as the kinds of interests that required to be disclosed and the circumstances under which disclosure should be made, should be clearly set out in writing, such as in the form of a code of conduct or guideline; and
  - (ii) Clause 52 seemed to imply that a member of the FRC/AIB/FRRC should not participate in the FRC/AIB/FRRC’s investigation or enquiry if conflict of interests was involved. This policy intent should be expressly stated in the Bill. While clause 52(5) provided that a member who had disclosed the nature of any interest in a matter should not participate in the FRC/AIB/FRRC’s deliberations and take part in any of its decision with respect to the matter, such a provision could only be invoked after the member had disclosed his interest. If the member did not disclose his interest, clause 52(5) could not serve its purpose.
- (h) Some members were concerned about the impact of non-disclosure of interests if it was found in the course of an investigation or enquiry that a member of AIB or FRRC had not disclosed his interest in the matter which was the subject of the investigation or enquiry. The Administration pointed out that under clause 52(8), a contravention of clause 52 did not invalidate a decision of the FRC, AIB, FRRC, or a committee established by the FRC. In members’ view, clause 52(8) could not address the concern that non-disclosure of interests of members of AIB or FRRC, whether intentional or unintentional, was unfair to the parties under investigation or enquiry, and might subject the investigation or enquiry report to legal challenge. In this connection, the Administration was requested to consider and respond to the views

and suggestions expressed by some members, as follows:

- (i) A mechanism should be provided in the Bill to deal with the situation mentioned above. A suggested option was that if it was found in the course of an investigation or enquiry that a member of AIB or FRRC had not disclosed his interest in the matter which was the subject of the investigation or enquiry, the FRC was required to review whether the same AIB or FRRC should continue with its work or the AIB or FRRC should be dissolved and reconstituted, and the review undertaken by the FRC in this regard should be recorded in the report of the AIB or FRRC; and
  - (ii) It was not appropriate to rely on the general provisions in section 42(b) of the Interpretation and General Clauses Ordinance (Cap. 1) to deal with issues relating to vacancy in the membership and dissolution of the AIB or FRRC arising from the situation mentioned above.
- (i) Clause 52(4) provided that the FRC should keep a record of the particulars of the interests disclosed under the clause. There was no provision in the Bill requiring the disclosure of the record. In this connection, the Administration was requested to consider and respond to the views and suggestions expressed by members, as follows:
- (i) In principle, the interest disclosure record should be made available for public inspection to enhance the transparency of the operation of the FRC. However, some members were concerned that making public the interest disclosure record might have negative impact on the market and jeopardize the interests of the listed entities under investigation or enquiry. Consideration might be given to disclose in the investigation or enquiry report the interests declared and conflict of interests involved, if any. Such record would then be made public if it was decided by the FRC that the report should be made public; and
  - (ii) If a member of the FRC, AIB, or FRRC had disclosed interest in a matter which was the subject of an investigation or enquiry but the FRC considered that:
    - there was no conflict of interests involved and the member should be allowed to participate in the investigation or enquiry; or
    - despite there was conflict of interests involved, the member should be allowed to participate in the investigation or enquiry,

the parties under investigation or enquiry should be informed of such disclosure of interests and the FRC's decision.

Clause 34 — Retention of records

- (j) The Administration undertook to propose a CSA to clause 34(4) to the effect that the records or documents removed under a magistrate's warrant might also be retained for such longer period as might be necessary for the purpose of the disciplinary proceedings under the PAO (paragraph 9 of LC Paper No. CB(1)866/05-06(04)).

Clause 75 — Consequential amendments to the Prevention of Bribery Ordinance (PBO) (Cap. 201)

- (k) The Administration undertook to consider the suggestion raised by the legal adviser to the Bills Committee that the reference to "Audit Investigation Board" and "Financial Reporting Review Committee" be added to Schedule 1 to the PBO (paragraph 10 of LC Paper No. CB(1)665/05-06(09)).

Date of next meeting

4. Given that some members would be out of town in different periods of March, the Chairman suggested and members agreed that the next meeting be re-scheduled to be held on Friday, 24 March 2006, at 10:45 am.

**III. Any other business**

5. There being no other business, the meeting ended at 10:30 am.

Council Business Division 1  
Legislative Council Secretariat  
7 April 2006

**Proceedings of the eleventh meeting of the  
Bills Committee on Financial Reporting Council Bill  
on Friday, 24 February 2006, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000045	Chairman	<p><i>Confirmation of minutes of meetings</i> (LC Paper Nos. CB(1)961/05-06 and CB(1)962/05-06)</p>	
000046-001458	<p>Chairman Administration Assistant Legal Adviser (ALA6) Ms Emily LAU</p>	<p><i>Matters arising from the meeting held on 10 February 2006</i> (LC Paper Nos. CB(1)963/05-06(01) and (02))</p> <p><u>Application of the Interpretation and General Clauses Ordinance (Cap. 1)</u> (Paragraphs 2 and 3 of LC Paper No. CB(1)963/05-06 (02))</p> <p>(a) Briefing by the Administration</p> <p>(b) Views expressed by ALA6, as follows:</p> <p>(i) At the last meeting on 10 February, members noted the Administration's advice that in the unlikely situation that where most or all of the members of the Audit Investigation Board (AIB) or a Financial Reporting Review</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		<p>Committee (FRRC) could not or should not continue to serve, for example, due to death of members, or conflict of interest in the matter being investigated or enquired, the AIB or a FRRC would not be able to continue to operate, and under such circumstances, provisions in section 42(b) of Cap. 1 might be invoked to deal with issues relating to vacancy in the membership and dissolution of the AIB or FRRC. Given the concern that it was not appropriate to rely on the general principles in section 42(b) of Cap. 1 to deal with the issues in question, members requested the Administration to re-consider the need of setting out clearly in the Bill how such issues should be dealt with. Members had not requested the Administration to consider the need to expressly provide in the Bill what section 42(b) of Cap. 1 already provided (last sentence of paragraph 2 of LC</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p data-bbox="853 356 1190 432">Paper No. CB(1)963/05-06(02))</p> <p data-bbox="778 474 1190 1211">(ii) While section 42(b) of Cap. 1 provided for the power to revoke the appointment or dissolve any board or committee, it did not specify the circumstances under which such power could be exercised. If no express provision was provided in the Bill, it would be up to the FRC to decide, on a case-by-case basis, whether such power should be exercised, and might result in inconsistency</p> <p data-bbox="715 1261 1190 1335">(c) The Administration's advice, as follows:</p> <p data-bbox="778 1377 1190 1845">(i) It was not possible to set out in the Bill all possible situations where vacancy in the membership or dissolution of the AIB or a FRRC would arise, and the circumstances under which the FRC could exercise the power under section 42(b) of Cap. 1;</p> <p data-bbox="778 1888 1190 1960">(ii) Under the situation mentioned in item (a)(i)</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>above, section 42(b) of Cap. 1 could be invoked to dissolve the AIB or FRRC;</p> <p>(iii) The FRC was required to act lawfully and reasonably in considering whether or not to fill a vacancy in the membership or dissolve the AIB or FRRC; and</p> <p>(iv) The proposed arrangement for the FRC was in line with the existing arrangement for many other statutory bodies</p>	
001459-001715	Chairman Administration Ms Emily LAU	<p><u>Disciplinary provisions under the Professional Accountants Ordinance (PAO) (Cap. 50)</u> (Paragraphs 4 to 6 of LC Paper No. CB(1)963/05-06(02))</p> <p>(a) Briefing by the Administration</p> <p>(b) The Administration undertook to take the following actions:</p> <p>(i) To propose Committee Stage amendments (CSAs) to the relevant provisions of the PAO to empower the Hong Kong Institute of Certified Public</p>	The Administration to take action under paragraph 3(a) and (b) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		<p>Accountants (HKICPA) to discipline its members who had failed to comply with an information-gathering requirement imposed by the AIB or a FRRC in the investigations or enquiries; and</p> <p>(ii) To convey to the HKICPA and the future FRC members' suggestion of putting in place administrative arrangements for the FRC to inform the HKICPA of non-compliance of accountants with the information-gathering requirement of the AIB or a FRRC so as to facilitate the Institute to initiate appropriate disciplinary actions</p>	
001716-002540	<p>Chairman Administration Mr Ronny TONG Ms Emily LAU</p>	<p><u>Post-enquiry actions of a FRRC</u> (Paragraph 7 of, Annexes A and B to LC Paper No. CB(1)963/05-06(02))</p> <p>(a) Briefing by the Administration</p> <p>(b) Members' support for the proposed CSA to clause 49(1) and request for the Administration to improve the drafting taking into</p>	<p>The Administration to take action under paragraph 3(c) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>consideration members' suggestions, as follows:</p> <p>(i) To replace the proposed formulation "... there is or may be a question whether or not ..." in the English text of the draft proposed CSA by the formulation "... there is, or may be, a question whether or not ..."; and</p> <p>(ii) To recast the Chinese text of the draft proposed CSA so as to facilitate readers' understanding and to start the first sentence with "如財務滙報局覺得就某上市實體 ....."</p>	
002541-002755	Chairman Administration Ms Emily LAU	<p><u>Protection of informers' identity</u> (Paragraph 8 of LC Paper No. CB(1)963/05-06 (02))</p> <p>Having noted members' views and suggestions expressed at the meeting held on 10 February 2006 regarding the need to provide separate provisions in the Bill on "Protection of informers" (item 10 of LC Paper No. CB(1)963/05-06(01)), the Administration undertook to revert to the Bills Committee as soon as practicable</p>	The Administration to take action under paragraph 3(d) of the minutes

Time marker	Speaker	Subject(s)	Action Required
002756-004800	Chairman Administration Ms Emily LAU Mr Ronny TONG ALA6	<p><u>Clause 51 — Preservation of secrecy</u>                      (Paragraph 9 of and Annex C to LC Paper No. CB(1)963/05-06(02))</p> <p>(a) The Administration’s advice that the draft proposed CSAs to clause 51(3)(b)(ix) and (3)(c) were to address members’ concerns about the disclosure of information to the Official Receiver (OR) for him to perform the statutory duties of his two roles, i.e. the statutory duties as OR other than in the capacity of a liquidator/provisional liquidator under the Companies Ordinance (Cap. 32), and the statutory duties as OR in the capacity of a liquidator/provisional liquidator</p> <p>(b) The Administration was requested to consider and respond to members’ views and suggestions, as follows:</p> <p>(i) There were two major considerations for deciding the parties to which the FRC might disclose information: Information should only be disclosed on a “need-to-know” basis, and the disclosure</p>	<p>The Administration to take action under paragraph 3(e) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>would not give the parties receiving the information an unfair advantage over others;</p> <p>(ii) It was unclear why it was necessary for the FRC to disclose information to a liquidator/provisional liquidator of a listed entity which was the subject of its investigation or enquiry. The disclosure of information, particularly during the investigation or enquiry stage, might give the liquidator/provisional liquidator an unfair advantage over others and jeopardize the interest of the entity concerned;</p> <p>(iii) It was unclear from the draft proposed CSAs to clause 51(3)(c) whether the FRC might, apart from disclosing information to the liquidator/provisional liquidator of a listed entity which was the subject of its investigation or enquiry (Company A), also disclose information to other</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>liquidators/provisional liquidators. If the FRC might do so, it might disclose information about the investigation or enquiry to the liquidator/provisional liquidator of a creditor of Company A (Company B). The information might enable the liquidator/provisional liquidator of Company B to take swift action to recover assets from Company A, thus giving the liquidator/provisional liquidator an unfair advantage over other creditors of Company A. The policy intent in this regard was unclear and should be clarified; and</p> <p>(iv) From the drafting of the proposed CSAs to clause 51(3)(b) and (3)(c), it seemed that the FRC might disclose any information to the OR or liquidators/provisional liquidators. There should be some restrictions on the scope of disclosure</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>(c) The Administration’s advice, as follows:</p> <ul style="list-style-type: none"> <li>(i) Clause 51(3)(b)(ix) would facilitate OR in performing his statutory duties as OR in relation to administering the insolvency regime; and</li> <li>(ii) One of the important duties of a liquidator or provisional liquidator was to look into the affairs of the company in liquidation and ascertain whether any misfeasance, fraudulent preference, or breach of trust by companies had been committed by any of its officers. If necessary, the liquidator or provisional liquidator had to initiate proceedings accordingly. Clause 51(3)(c)(i) would enable the FRC to disclose relevant information regarding a listed entity to the liquidator or provisional liquidator to facilitate them in carrying out their duties in this respect</li> </ul>	
004801-011245	Chairman Administration Mr Ronny TONG	<u>Clause 52 — Avoidance of conflict of interests</u> (Paragraphs 10 to 16 of and	

Time marker	Speaker	Subject(s)	Action Required
	ALA6	<p>Annex D to LC Paper No. CB(1)963/05-06(02))</p> <p>(a) Briefing by the Administration</p> <p>(b) The Administration undertook to propose a CSA to clarify that the term “interest” in clause 52(3)(a) meant interest in securities or a collective investment scheme</p> <p>(c) Member’s enquiry about the requirement for disclosure of an interest in a matter which related to an entity with which a person’s past employer had previously merged</p> <p>(d) The Administration’s advice, as follows:</p> <p>(i) Under clause 52(3)(b)(i), a person had an interest in a matter if the matter related to “another person by whom he is or was employed” (i.e. his, past or present, employer); and</p> <p>(ii) On construction of clause 52(3)(b)(i), if a person’s previous employer (Entity A) had merged with another entity (Entity</p>	<p>The Administration to take action under paragraph 3(f) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>B) to form a new entity (Entity C) and where Entity A had ceased to exist after the merger and Entity C was the subject matter at issue, the person was not required to disclose his past employment relationship with Entity A which no longer existed and was not the subject matter at issue</p> <p>(e) Request for the Administration to consider and respond to the views and suggestions expressed by members, as follows:</p> <p>(i) It was important to put in place a stringent interest disclosure regime to avoid conflict of interests. Details about the FRC's interest disclosure regime, such as the kinds of interests that required to be disclosed and the circumstances under which disclosure should be made, should be clearly set out in writing, such as in the form of a code of conduct or guideline; and</p> <p>(ii) Clause 52 seemed to imply that a member of</p>	<p>The Administration to take action under paragraph 3(g) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>the FRC/AIB/FRRC should not participate in the FRC/AIB/FRRC's investigation or enquiry if conflict of interests was involved. This policy intent should be expressly stated in the Bill. While clause 52(5) provided that a member who had disclosed the nature of any interest in a matter should not participate in the FRC/AIB/FRRC's deliberations and take part in any of its decision with respect to the matter, such a provision could only be invoked after the member had disclosed his interest. If the member did not disclose his interest, clause 52(5) could not serve its purpose</p> <p>(f) The Administration's advice, as follows:</p> <p>(i) Clause 52(2) provided that if, in the course of performing a function under the Financial Reporting Council Ordinance, a person was required to consider a matter in which he had an interest, he should</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>immediately disclose the nature of the interest to the FRC. Clauses 52(3) and (9) defined the scope of interests which should be disclosed;</p> <p>(ii) The policy intent was to put in place an effective interests disclosure regime in clause 52 and to empower the FRC, if it saw fit, to determine whether a person who had disclosed interest should be allowed to continue to participate in an investigation or enquiry of the matter concerned; and</p> <p>(iii) Clause 13 provided that the FRC might issue guidelines relating to the performance of its functions. The FRC was required to publish such non-statutory guidelines in the Gazette</p>	
011246-014602	<p>Mr Albert HO Administration Ms Emily LAU Chairman Mr Ronny TONG ALA6 Mr SIN Chung-kai</p>	<p><u>Clause 52 — Avoidance of conflict of interests</u></p> <p>(a) Members' concern about the impact of non-disclosure of interests if it was found in the course of an investigation or enquiry that a member of AIB or FRRC had not</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>disclosed his interest in the matter which was the subject of the investigation or enquiry</p> <p>(b) The Administration's advice, as follows:</p> <p>(i) Section 42(b) of Cap. 1 might be invoked to deal with the situation mentioned in item (a) above. If considered appropriate, the FRC might dissolve the AIB or FRRC concerned; and</p> <p>(ii) Under clause 52(8), a contravention of clause 52 did not invalidate a decision of the FRC, AIB, FRRC, or a committee established by the FRC</p> <p>(c) Members' view that clause 52(8) could not address the concern that non-disclosure of interests of members of AIB or FRRC, whether intentional or unintentional, was unfair to the parties under investigation or enquiry, and might subject the investigation or enquiry report to legal challenge</p> <p>(d) Request for the Administration to consider and respond to the views and</p>	<p>The Administration to take action under paragraph 3(h) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>suggestions expressed by members, as follows:</p> <p>(i) A mechanism should be provided in the Bill to deal with the situation mentioned in item (a) above. A suggested option was that if it was found in the course of an investigation or enquiry that a member of AIB or FRRC had not disclosed his interest in the matter which was the subject of the investigation or enquiry, the FRC was required to review whether the same AIB or FRRC should continue with its work or the AIB or FRRC should be dissolved and reconstituted, and the review undertaken by the FRC in this regard should be recorded in the report of the AIB or FRRC; and</p> <p>(ii) It was not appropriate to rely on the general provisions in section 42(b) of Cap.1 to deal with issues relating to vacancy in the membership and dissolution of the AIB or FRRC arising from the situation mentioned</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p style="text-align: center;">above</p> <p><u>Record of interests disclosed under clause 52</u></p> <p>(a) A member's concern that although clause 52(4) provided that the FRC should keep a record of the particulars of the interests disclosed under the clause, there was no provision in the Bill requiring the disclosure of the record</p> <p>(b) The Administration's advice, as follows:</p> <p style="padding-left: 40px;">(i) The FRC had the statutory obligation under clause 51 to preserve secrecy of information relating to its investigation or enquiry;</p> <p style="padding-left: 40px;">(ii) Making public the interest disclosure record might have negative impact on the market and jeopardize the interests of the listed entities under investigation or enquiry; and</p> <p style="padding-left: 40px;">(iii) The FRC could consider the relevant circumstances in deciding whether to disclose in the</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>investigation or enquiry report the interests declared and conflict of interests involved</p> <p>(c) The Administration was requested to consider and respond to the views and suggestions expressed by members, as follows:</p> <p>(i) In principle, the interest disclosure record should be made available for public inspection to enhance the transparency of the operation of the FRC. However, to address the concern that making public the interest disclosure record might have negative impact on the market and jeopardize the interests of the listed entities under investigation or enquiry, consideration might be given to disclose in the investigation or enquiry report the interests declared and conflict of interests involved, if any. Such record would then be made public if it was decided by the FRC that the report should be made public; and</p>	<p>The Administration to take action under paragraph 3(i) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>(ii) If a member of the FRC, AIB, or FRRC had disclosed interest in a matter which was the subject of an investigation or enquiry but the FRC considered that:</p> <ul style="list-style-type: none"> <li>● there was no conflict of interests involved and the member should be allowed to participate in the investigation or enquiry; or</li> <li>● despite there was conflict of interests involved, the member should be allowed to participate in the investigation or enquiry,</li> </ul> <p>the parties under investigation or enquiry should be informed of such disclosure of interests and the FRC's decision</p>	
014603-014805	Chairman Administration	<p><i>Matters arising from the meeting on 23 January 2006</i> (Paragraphs 9 to 13 of LC Paper No. CB(1)866/05-06(04))</p> <p><u>Clause 34 – Retention of records</u></p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>The Administration undertook to propose a CSA to clause 34(4) to the effect that the records or documents removed under a magistrate’s warrant might also be retained for such longer period as might be necessary for the purpose of the disciplinary proceedings under the PAO</p> <p><u>Revision of financial reports</u></p> <p>The Administration’s advice that its response to members’ concerns on clauses 49 and 50 were covered at the earlier part of the meeting</p>	<p>The Administration to take action under paragraph 3(j) of the minutes</p>
014806-015410	<p>Chairman Administration Mr Ronny TONG ALA6</p>	<p><b><i>Part 6 (Consequential and related amendments)</i></b></p> <p><u>Clauses 65, 70 (and 73), 74, 78 and 81 — Secrecy provisions of related ordinances</u> (Paragraph 6 of LC Paper No. CB(1)665/05-06(09))</p> <p>Briefing by the Administration <u>Clauses 71, 72 and 80 — Recovery of investigation costs</u> (Paragraph 7 of LC Paper No. CB(1)665/05-06(09))</p> <p>(a) Briefing by the Administration</p> <p>(b) Comments by a deputation on the clauses (item 8.1 of LC Paper No. CB(1)166/05-06(03))</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p><u>Clauses 67 to 69, 75, 76 and 79 — Other consequential amendments</u> (Paragraphs 8 to 12 of LC Paper No. CB(1)665/05-06(09))</p> <p>(a) Briefing by the Administration</p> <p>(b) The Administration undertook to consider the suggestion raised by ALA6 that the reference to “Audit Investigation Board” and “Financial Reporting Review Committee” be added to Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) (paragraph 10 of LC Paper No. CB(1)665/05-06(09))</p>	<p>The Administration to take action under paragraph 3(k) of the minutes</p>
015411-015528	Chairman Administration Ms Emily LAU	<i>Date of next meeting</i>	