

立法會
Legislative Council

LC Paper No. CB(1)2123/05-06
(These minutes have been seen
by the Administration)

Ref : CB1/BC/13/04

Bills Committee on Financial Reporting Council Bill

**Minutes of the twentieth meeting held on
Friday, 16 June 2006, at 10:45 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
- Members absent** : Dr Hon LUI Ming-wah, SBS, JP
Hon Bernard CHAN, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Ronny TONG Ka-wah, SC
- Public officers attending** : Mr Albert LAM
Deputy Secretary for Financial Services and the Treasury
(Financial Services)
- Ms Selene TSOI
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 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

Mr Paul WOO
Senior Council Secretary (1)3

Mr Justin TAM
Council Secretary (1)3

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- I. Meeting with the Administration**
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| (LC Paper No. CB(1)1772/05-06(01) | — | “Follow-up to the nineteenth meeting on 9 June 2006” prepared by the Legislative Council Secretariat |
| LC Paper No. CB(1)1655/05-06(01) | — | Letter dated 6 June 2006 from Hon SIN Chung-kai |
| LC Paper No. CB(3)713/04-05 | — | The Bill |
| LC Paper No. CB(1)1655/05-06(04) | — | Draft Committee Stage amendments to Schedules 2 and 3 to the Bill prepared by the Assistant Legal Adviser for the Bills Committee |

- LC Paper No. CB(1)1589/05-06(02) — Extracts from the Report of the Bills Committee on Construction Industry Council (No. 2) Bill with relevant Committee Stage amendments
- LC Paper No. CB(1)1655/05-06(03) — Marked-up copy of the Bill showing the revised draft Committee Stage amendments proposed by the Administration (June 2006)
- LC Paper No. CB(1)1127/05-06(02) — “Summary of outstanding issues of concern and proposed amendments to individual clauses of the Bill (Position as at 22 March 2006)” prepared by the Legislative Council Secretariat)

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

Hon SIN Chung-kai’s proposed amendment to clause 17

2. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services) (DS/FST(FS)) reported on the outcome of the Administration’s consultation with the other three funding parties of the Financial Reporting Council (FRC) (i.e. the Securities and Futures Commission (SFC), Hong Kong Exchanges and Clearing Limited, and Hong Kong Institute of Certified Public Accountants) on Hon SIN Chung-kai’s suggestion to incorporate in clause 17 a requirement for the estimates of the income and expenditure of the FRC to be laid on the table of the Legislative Council. He advised that the three funding parties supported the original provision in clause 17 and did not support Hon SIN Chung-kai’s proposed amendment. At the request of the Chairman, DS/FST(FS) agreed to provide the Bills Committee with a written response on the outcome of the consultation.

(Post-meeting notes:

- (a) The Administration’s letter dated 9 June 2006 to the SFC seeking the Commission’s views on the proposed amendment to clause 17, which was tabled at the meeting, was issued to members vide LC Paper No. CB(1)1800/05-06(01) on 19 June 2006; and
- (b) The Administration’s written response on the outcome of the consultation was issued to members vide LC Paper No. CB(1)1800/05-06(02) on 19 June 2006.)

3. Referring members to the draft proposed Committee Stage amendment (CSA) to clause 17 (LC Paper No. CB(1)1777/05-06(01)), Mr SIN Chung-kai sought other members' support for the proposed CSA to be moved by the Bills Committee. He pointed out that the proposed CSA was modeled on the relevant provision in the Securities and Futures Ordinance (Cap. 571). Mr SIN indicated that if his suggestion was not supported by other members, he would move the CSA in his personal capacity. DS/FST(FS) pointed out that the Administration did not support the proposed CSA.

4. The Chairman put Mr SIN Chung-kai's suggestion to vote. Of the five members present, three members voted for and two members voted against the suggestion. The Chairman declared that the suggestion was endorsed by the Bills Committee. On the drafting of the proposed CSA to clause 17, it was agreed that the term "The Financial Secretary" in the proposed new subclause (4) be revised as "The Secretary". It was also agreed that the Chairman would move the CSA on behalf of the Bills Committee.

Next step

5. The Bills Committee completed scrutiny of the Bill. Members supported the Administration's proposal that the Second Reading debate on the Bill be resumed on 12 July 2006. DS/FST(FS) agreed to provide, as soon as practicable, a full set of the finalized draft CSAs (in Chinese and English) proposed by the Administration for incorporation into the Bills Committee's report to be submitted to the House Committee for consideration at its meeting on 23 June 2006.

6. The Chairman advised that the meeting originally scheduled for 20 June 2006 would be cancelled.

II. Any other business

7. There being no other business, the meeting ended at 11:15 am.

**Proceedings of the twentieth meeting of the
Bills Committee on Financial Reporting Council Bill
on Friday, 16 June 2006, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000839	Chairman Administration Clerk Ms Emily LAU Mr CHAN Kam-lam Mr Andrew LEUNG Mr SIN Chung-kai	<p data-bbox="662 674 1192 745"><u>Hon SIN Chung-kai's proposed amendment to clause 17</u></p> <p data-bbox="662 792 1192 1256">(a) The Administration reported on the outcome of its consultation with the other three funding parties of the Financial Reporting Council (FRC) (i.e. the Securities and Futures Commission, Hong Kong Exchanges and Clearing Limited, and Hong Kong Institute of Certified Public Accountants) on Hon SIN Chung-kai's proposed amendment to clause 17</p> <p data-bbox="662 1303 1192 1688">(b) The Chairman questioned why the Administration had not provided a written reply to the Bills Committee on the outcome of its consultation with the three funding parties. The Administration responded that it had undertaken to provide a verbal reply, not a written reply, at this meeting</p> <p data-bbox="662 1736 1192 1960">(c) In response to the Chairman, the Clerk advised that in her liaison with the Administration over the phone before this meeting, she had relayed the Chairman's request for a written reply from</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>the Administration and the Administration had undertaken verbally to table its written reply at this meeting</p> <p>(d) The Administration confirmed that it had only promised to provide a verbal reply at this meeting and that the misunderstanding might have been caused by communication problem. The Clerk reiterated that during her telephone conversation with the Administration before this meeting, the Administration had undertaken that it would table its written reply at this meeting</p> <p>(e) Two members considered that as the Administration had already verbally reported on the outcome of the consultation, a written reply would not be necessary. Two other members supported the Chairman's request for a written reply</p> <p>(f) The Administration was requested to provide the Bills Committee with a written response on the outcome of its consultation with the three funding parties</p>	<p>The Administration to take action under paragraph 2 of the minutes</p>
000840-001319	<p>Chairman Mr Andrew LEUNG Clerk Mr SIN Chung-kai Administration Assistant Legal</p>	<p><u>Letter dated 15 June 2006 from Hon SIN Chung-kai with draft proposed Committee Stage amendment (CSA) to clause 17 (LC Paper No. CB(1)1777/05-06(01))</u></p>	

Time marker	Speaker	Subject(s)	Action Required
	<p>Adviser 6 (ALA6) Mr CHAN Kam-lam Ms Emily LAU</p>	<p>(a) Mr SIN Chung-kai briefed members on his proposed CSA to clause 17. He advised that the proposed CSA was modelled on similar provisions in the Securities and Futures Ordinance (Cap. 571). Mr SIN sought other members' support for the proposed CSA to be moved by the Bills Committee</p> <p>(b) The Administration reiterated that it did not support the proposed CSA. It also considered that under the proposed CSA, the proposed new subclause (4) of clause 17 was inconsistent with subclause (3) because, pursuant to subclause (3), the FRC's estimates of expenditure would be approved by the Secretary for Financial Services and the Treasury but not the Financial Secretary</p> <p>(c) ALA6 advised that to achieve consistency, "The Financial Secretary" in the proposed new subclause (4) could be revised as "The Secretary". Mr SIN Chung-kai agreed to revise the new subclause (4) accordingly</p> <p>(d) While a member supported the proposed CSA, another member did not support it</p> <p>(e) Voting on Mr SIN Chung-kai's proposal for the Bills Committee to move the proposed CSA to</p>	

Time marker	Speaker	Subject(s)	Action Required
		clause 17	
001320-001755	Chairman ALA6 Administration Ms Emily LAU	<p><u>Draft proposed CSA to Schedule 3 to the Bill to be moved by the Bills Committee</u> (LC Paper No. CB(1)1655/05-06(04))</p> <p>(a) Briefing by ALA6 on the draft proposed CSA to section 1(1) of Schedule 3 to the Bill on recruitment arrangement for the Chief Executive Officer (CEO) of the FRC</p> <p>(b) The Administration indicated that it did not support the proposed CSA. On drafting, the Administration considered the expression “recruited openly” unclear and that it might give rise to the question of whether open recruitment needed to be conducted upon the expiry of the CEO’s three years’ term</p> <p>(c) ALA6 responded that the expression “recruited openly” was commonly used and its meaning should be well understood. The proposed CSA sought to impose a requirement for the CEO to be recruited openly and the intention was that such a requirement should apply to the first appointment but not necessarily to subsequent reappointment of the same person to the post. A member shared ALA6’s views</p>	

Time marker	Speaker	Subject(s)	Action Required
001756-002649	Chairman ALA6 Administration Mr CHAN Kam-lam Ms Emily LAU	<p>(a) Briefing by ALA6 on the draft proposed CSAs to section 3 of Schedule 3 to the Bill, namely, to add a new subsection (2) on the remuneration of the CEO and a new subsection (3) on the post-termination employment of the CEO</p> <p>(b) The Administration indicated that it did not support the proposed CSAs. On drafting, the Administration considered it unclear what the expressions “public officers of comparable level”; “independent committee”; “sanitization period” and “any remunerative employment” referred to</p> <p>(c) ALA6 considered the expressions “sanitization period” and “any remunerative employment” sufficiently clear as the provision was meant to set out the principles to be followed by the FRC which could fill out the details. A member shared ALA6’s views. She also considered the expressions “public officers of comparable level” and “independent committee” sufficiently clear</p> <p>(d) While a member expressed support for the proposed CSAs, another member did not support them</p> <p>(e) In response to members’ enquiries, ALA6 advised that the</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>sanitization period applicable to post-termination employment of directorate civil servants referred to a period of not less than 12 months commencing from the date of the termination during which the directorate civil servants were prohibited from taking up employment. He further advised that the expressions “sanitization period” and “control period” were used by the Administration in its papers previously presented to the LegCo</p> <p>(f) A member suggested that the expression “sanitization period” in the proposed new subsection (3) of section 3 of Schedule 3 be substituted with “control period”, as it was the intention of the amendment that the CEO could take up remunerative employment within a prescribed period after termination of his employment with the FRC, provided that prior written approval of the Council had been given. Other members had no objection to this suggestion</p>	
002650-002915	Chairman Ms Emily LAU Administration	<p><u>Next step</u></p> <p>(a) Members supported the Administration’s proposal that the Second Reading debate on the Bill be resumed on 12 July 2006. The deadline for giving notice of CSAs was 3 July 2006</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>(b) The Administration was requested to provide, as soon as practicable, a full set of the finalized draft CSAs (in Chinese and English) proposed by the Administration for incorporation into the Bills Committee's report to be submitted to the House Committee for consideration at its meeting on 23 June 2006</p> <p>(c) The Chairman advised that the meeting originally scheduled for 20 June 2006 would be cancelled</p>	The Administration to take action under paragraph 5 of the minutes

Council Business Division 1
Legislative Council Secretariat
14 August 2006