

**President's ruling on
Citibank (Hong Kong) Limited (Merger) Bill
proposed by Dr Hon David LI Kwok-po, GBS, JP**

I have been requested by Dr Hon David LI to rule whether his proposed Citibank (Hong Kong) Limited (Merger) Bill, which he intends to introduce into this Council, relates to the restrictions prescribed in Rule 51(3) and (4) of the Council's Rules of Procedure. Before making a ruling on the Bill, I have invited the Secretary for Financial Services and the Treasury ("SFST") to offer his comments and Dr Hon David LI to offer his response. I have also sought the advice of Counsel to the Legislature.

Rule 51(3) and (4) of the Rules of Procedure

2. Rule 51(3) and (4) reads as follows:

"51(3) Members may not either individually or jointly introduce a bill which, in the opinion of the President, relates to public expenditure or political structure or the operation of the Government."

"51(4) In the case of a bill which, in the opinion of the President, relates to Government policies, the notice shall be accompanied by the written consent of the Chief Executive in respect of the bill."

Purpose of the Bill

3. The Bill provides for the vesting in Citibank (Hong Kong) Limited ("Citibank (Hong Kong)") of the undertakings of the Hong Kong Branch of Citibank N.A. ("Citibank") and for other related purposes. According to the Explanatory Memorandum of the Bill, its purpose is "to transfer the undertakings of the Hong Kong branch of Citibank, N.A. to Citibank (Hong Kong) Limited". If the Bill is enacted, on the appointed day the undertakings shall, by virtue of this Ordinance and without further act or deed, be transferred to, and vest in, Citibank (Hong Kong).

4. According to the information provided by Dr Hon David LI, Citibank (Hong Kong) already carries on a substantial part of Citibank's consumer businesses in Hong Kong, including its credit card and mutual fund businesses. The Bill will bring together the consumer businesses of Citibank in Hong Kong into a single corporate vehicle.

The Administration's views

5. SFST is of the view that the Bill relates to Government's policies on bank merger, taxation, and control of tenancies:

(a) Bank merger

SFST advises that it is the Government's policy to support consolidation of the banking sector in Hong Kong, which should improve its competitiveness and contribute to systemic stability in the longer term. As part of this policy, the Administration endeavours to promote and facilitate bank mergers, consolidation or restructuring where reasonable proposals are submitted for consolidation. This is, however, always subject to the overriding aim to promote the stability of the banking system and to provide an appropriate degree of protection to depositors in the merged institutions and to depositors in the merged institutions and to depositors generally.

The Administration considers that the proposed merger will help promote stability of the banking sector.

(b) Taxation

SFST points out that the Bill, as currently drafted, contains several clauses (in particular clauses 4 and 8) which have the effect of deeming the Citibank (Hong Kong) as one and the same as the Citibank, Hong Kong Branch in law with regard to retail banking business; and allowing any profits and losses of the Citibank, Hong Kong Branch with regard to retail banking business to be treated as the profits and losses of the Citibank (Hong Kong) from the appointed day.

(c) Control of tenancies

Under Clause 13(1)(a) and (b) of the Bill, the vesting and deemed vesting in Citibank (Hong Kong) of an interest in land by virtue of the enacted Ordinance shall not constitute:

- (i) an acquisition, disposal, assignment, transfer or parting with possession of that interest for the purposes of section 53(4)(a) or (7)(a) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (LTO); or
- (ii) an assignment or underlease of, or an agreement to assign or underlet, that interest for the purposes of section 6(1)(b) of LTO.

SFST considers that these provisions of the Bill, if enacted, will have the effect of amending the application of those sections of LTO referred to therein; the latter may otherwise apply but for the enactment of these provisions. Hence, they relate to government policy as reflected in the above-mentioned sections of LTO.

Response from Dr Hon David LI

6. Dr LI has informed me that he has no comments on SFST's view.

Advice of Counsel to the Legislature

7. Counsel to the Legislature advises that the Bill relates to Government policies for reason that the Bill would have substantive effect on Government's policies on bank merger, taxation and control of tenancies.

My opinion

8. Having considered the advice of Counsel to the Legislature in the light of SFST's views on the Bill, and having regard to Dr Hon David LI's advice that he has no comments on the Administration's views, I consider that the Bill relates to Government's policies on the regulation of banks, taxation, and the control of tenancies, as reflected in the relevant legislation.

Ruling

9. I rule that the Citibank (Hong Kong) Limited (Merger) Bill relates to Government policies within the meaning of Rule 51(4) of the Rules of Procedure and requires the written consent of the Chief Executive for its introduction.

(Mrs Rita FAN)
President
Legislative Council

13 December 2004