

立法會
Legislative Council

LC Paper No. CB(1)2104/09-10
(These minutes have been seen by
the Administration)

Ref : CB1/BC/5/09/2

Bills Committee on Deposit Protection Scheme (Amendment) Bill 2010

First meeting on
Thursday, 6 May 2010, at 4:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon Fred LI Wah-ming, SBS, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung

Member absent : Hon Audrey EU Yuet-mee, SC, JP

Public officers : Ms Meena DATWANI
Attending Executive Director (Banking Conduct)
Hong Kong Monetary Authority

Mr Colin POU
Head (Deposit Protection Scheme)
Hong Kong Monetary Authority

Mr Adrian LAM
Assistant Secretary for Financial Services and the Treasury
(Financial Services)

Ms Phyllis KO
Senior Assistant Law Draftsman
Department of Justice

Miss Mandy NG
Government Counsel
Department of Justice

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (1)5

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Mr Fred PANG
Council Secretary (1)5

Ms Haley CHEUNG
Legislative Assistant (1)8

I Election of Chairman

Mr Albert HO, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Bills Committee. He invited nominations for the chairmanship of the Bills Committee.

2. Mr CHAN Kam-lam was nominated by Mr CHIM Pui-chung and the nomination was seconded by Ms Miriam LAU. Mr CHAN Kam-lam accepted the nomination. There being no other nomination, Mr Albert HO declared that Mr CHAN Kam-lam was elected Chairman of the Bills Committee.

II Meeting with the Administration

(LC Paper No. CB(3)575/09-10

— The Bill

B9/2/2C

— The Legislative Council Brief issued by the Financial Services and the Treasury Bureau

LC Paper No. LS57/09-10

— The Legal Service Division Report on the Bill

LC Paper No. CB(1)1806/09-10 — Background Brief on Deposit Protection Scheme (Amendment) Bill 2010

LC Papers No. CB(1)1807/09-10(01) — Marked-up copy of the Bill prepared by the Legal Service Division

LC Papers No. CB(1)1807/09-10(02) — Letter from Assistant Legal Adviser to the Administration dated 19 April 2010 on Deposit Protection Scheme (Amendment) Bill 2010

LC Papers No. CB(1)1807/09-10(03) — Administration's response to the letter from Assistant Legal Adviser dated 21 April 2010 on Deposit Protection Scheme (Amendment) Bill 2010)

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

(Post-meeting note: The set of powerpoint presentation materials (LC Paper No. CB(1)1842/09-10(01)) of the Administration was issued to members by Lotus Notes on 7 May 2010.)

Admin

Follow-up actions to be taken by the Administration

4. Noting that there was no proposal under the Bill to extend Deposit Protection Scheme (DPS) to cover deposits placed with restricted licence banks (RLBs) and deposit-taking companies (DTCs), Mr Albert HO expressed concern that the clients of RLBs and DTCs might not be aware that after the enhanced DPS took effect, their deposits would continue to be not protected under the Scheme. He requested the Administration to consider requiring RLBs and DTCs to disclose to their clients, after the enhanced DPS took effect, that their deposits were not protected under the Scheme.

5. Expressing concern about the possible impacts of the scheduled lifting of the temporary full deposit protection at the beginning of 2011, Ms Miriam LAU requested the Administration to provide updated information on the deposit protection arrangements in other jurisdictions.

6. Noting that the Hong Kong Deposit Protection Board (HKDPB) had commissioned the Chinese University of Hong Kong to conduct an opinion survey about the review of the DPS, Ms Miriam LAU requested the Administration to provide a copy of the opinion survey and a summary of the survey findings.

III Any other business

Invitation for views

7. In view of the extensive public consultation that had been conducted in 2009 on the proposals under the Deposit Protection Scheme (Amendment) Bill 2010 (the Bill), members agreed that there was no need for the Bills Committee to further solicit public views on the Bill.

Date of next meeting

8. The Chairman and members agreed that the next meeting would be held on 20 May 2010 at 8:30 am to proceed with the clause-by-clause examination of the Bill.

9. There being no other business, the meeting ended at 5:45 pm.

Council Business Division 1
Legislative Council Secretariat
31 May 2010

**Proceedings of the
Bills Committee on Deposit Protection Scheme (Amendment) Bill 2010
First meeting on Thursday, 6 May 2010, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action Required
000228 – 000515	Mr Albert HO Ms Miriam LAU Mr CHIM Pui-chung Mr CHAN Kam-lam	Election of Chairman	
000516 – 004102	Administration	Briefing by the Administration on the proposals in the Bill.	
004103 – 004852	Mr Albert HO Administration Chairman	<p>(a) Mr Albert HO said that the Democratic Party supported the proposals of raising the protection limit of the DPS to \$500,000, expanding the coverage to include secured deposits and enhancing the disclosure requirements on DPS members. It was important that the proposed enhancements under the Bill would take effect on time to dovetail with the lifting of the temporary full deposit guarantee at the end of 2010.</p> <p>(b) In reply to Mr Albert HO's enquiry, the Administration advised that under the existing and the future enhanced DPS, both Hong Kong dollar and foreign currency deposits would be protected. However, deposits remitted abroad, even if the remittance concerned was held with an overseas branch of a DPS member, would not be covered.</p> <p>(c) Mr Albert HO expressed concern whether depositors were well aware of the protection status of offshore deposits. The Administration advised that the bank concerned would be required under the existing and the future enhanced DPS to make disclosure to the depositors and obtain their acknowledgement about the change of protection status of the deposits.</p> <p>(d) Mr Albert HO expressed concern whether positive or negative disclosure arrangement would be in place for every kind of deposits such as equity-linked notes and structured deposits. The Administration advised that</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>DPS members would be required under the future enhanced DPS to make negative disclosure and obtain depositors' acknowledgement on a transaction basis for deposits that were not protected, if the depositor concerned was not an institutional investor.</p> <p>(e) In reply to the Chairman's enquiry, the Administration advised that a DPS member who failed to comply with the disclosure requirements would be in breach of the relevant provisions in the Deposit Protection Scheme Ordinance (DPSO) and would be liable to sanctions. The Administration would launch a publicity campaign including infomercials to educate the public about the scope of protection under the enhanced DPS.</p> <p>(f) Mr Albert HO opined that the Administration should consider requiring RLBs and DTCs to make disclosure to their customers that their deposits were not protected under the DPS.</p>	<p>Administration to take action.</p>
<p>004853 – 005831</p>	<p>Ms Miriam LAU Chairman Administration</p>	<p>(a) Ms Miriam LAU expressed concern that, notwithstanding the implementation of the enhanced DPS on 1 January 2011 to tie in with the lifting of the temporary full deposit guarantee, there would be huge capital outflow from Hong Kong to other countries where full or enhanced deposit guarantee was still in force in 2011.</p> <p>(b) The Administration advised that Singapore, Malaysia, Brunei and Taiwan were the jurisdictions in South-East Asia with full deposit guarantee in place and they had indicated their intention to withdraw the full deposit guarantee at the end of 2010. The Hong Kong Monetary Authority (HKMA), the central banks in Singapore and Malaysia had set up a tripartite liaison group to co-ordinate the timing for lifting their full deposit guarantee. The full deposit guarantee in Australia and New Zealand had been cancelled already.</p> <p>(c) Ms Miriam LAU expressed concern that other countries might extend their full deposit guarantee arrangements at a later date. The</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Administration advised that the temporary full deposit guarantee in Hong Kong was a time-limited arrangement and would remain in force until the end of 2010 when a decision would be taken in the light of international financial conditions on whether the arrangement should be extended. Other countries adopted a similar approach. At this stage, the parties in the tripartite liaison group held a common view that there was no need to extend the temporary full deposit guarantee. In Hong Kong, whether the enhanced DPS could be implemented on time would probably be a factor affecting the decision on the timing of lifting the full deposit guarantee.</p> <p>(d) At the request of Ms Miriam LAU, the Administration would provide updated information on the deposit protection arrangement in other jurisdictions.</p> <p>(e) Ms Miriam LAU enquired about the ownership and management of the DPS Fund. The Administration advised that the DPS commenced operation and started to collect premium from the banking industry since 2006. The Fund had accumulated to about \$1 billion. Once the target fund size was achieved, the rates for charging annual contributions from DPS members would be significantly reduced to a level just sufficient to maintain the daily operation of the DPS. The DPS Fund would continue to be invested with the objective of maintaining the Fund for meeting the cost of payouts upon the occurrence of crisis such as bank failure. A surcharge would be levied on Scheme members if the DPS Fund was depleted to a level below 30% of the target fund size. DPS members would receive a rebate if the balance of the Fund exceeded the target fund size by more than 15%.</p> <p>(f) Ms Miriam LAU enquired about the impacts of the global financial crisis on the investment returns of the Fund. The Administration explained that the Hong Kong Deposit Protection Board (HKDPB) adopted a conservative investment strategy for the DPS Fund. The DPSO specified that the DPS</p>	<p>Administration to take action</p>

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		<p>Fund could be invested only in items such as deposits with the Exchange Fund, US Treasury Bills and Exchange Fund Bills. The DPS Fund did not suffer a loss despite the turbulent market conditions in 2008. The DPS Fund was not owned by the Government and was managed by the HKDPB as specified in the DPSO.</p>	
005832 – 010214	Mr CHIM Pui-chung Administration	<p>(a) Mr CHIM Pui-chung enquired whether the Administration would issue a statement at the end of 2010 to inform the public that the full deposit guarantee had accomplished its historical mission and would be lifted on 1 January 2011. The Administration advised that the Financial Secretary had mentioned in his 2010 Budget Speech about the expiry of the full deposit guarantee. It would be the Financial Secretary's decision as to whether there was a need for the Administration to make an announcement at the time of the expiry of the full deposit guarantee.</p> <p>(b) Mr CHIM Pui-chung noted that the DPS Fund was accumulated by collecting levies from banks and expressed concern about the transparency of the financial status of the Fund. The Administration advised that the statement of accounts of the Fund was audited by an auditor annually before it was submitted to the Financial Secretary. The annual reports of the HKDPB and its statement of accounts would also be laid on the table of the Legislative Council.</p>	
010215 – 010611	Chairman Ms Miriam LAU Administration	<p>(a) Ms Miriam LAU enquired how the consultation on the proposals under the Bill had been conducted. The Administration advised that the consultation was a public consultation and had been conducted in two phases. The first phase commenced in April 2009. The HKDPB had launched a publicity campaign through the mass media to encourage public participation in the consultation. A hotline had been set up for receiving public enquiries. More than 800 responses had been received during the consultation. The HKDPB had also commissioned the Chinese University of Hong Kong to conduct an opinion survey to</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>gauge public views about the proposals. The public consultation documents and the reports on the two phases of consultation had been published online. HKDPB had invited relevant industry organizations and professional bodies including the Hong Kong Association of Banks, the Hong Kong Institute of Certified Public Accountants and the Law Society of Hong Kong, the Consumer Council and other related organizations to give views on the proposals. At the request of Ms Miriam LAU, the Administration would provide a copy of the opinion survey report and a summary of the survey findings.</p> <p>(b) Ms Miriam LAU noted that about 80% of the respondents to the opinion survey found the proposed protection limit of \$500,000 acceptable, and enquired why the other 20% of the respondents hold different views about the proposal. The Administration advised that the opinion survey did not investigate why the respondents hold different views. While the public at large would prefer a protection limit as high as possible, some respondents such as academics expressed concern about the possible moral hazard caused by a high level of protection limit.</p>	<p>Administration to take action.</p>
<p>010612 – 010818</p>	<p>Chairman Ms Miriam LAU Mr CHIM Pui-chung</p>	<p>(a) Arrangements for the next meeting</p> <p>(b) Date of next meeting</p>	