

立法會
Legislative Council

LC Paper No. CB(1) 883/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/BC/10/02/2

Bills Committee on Deposit Protection Scheme Bill

**Minutes of the tenth meeting
held on Monday, 5 January 2004, at 8:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Albert HO Chun-yan (Chairman)
Dr Hon Eric LI Ka-cheung, GBS, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon SIN Chung-kai
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon Audrey EU Yuet-mee, SC, JP
- Member absent** : Hon Ambrose LAU Hon-chuen, GBS, JP
- Public officers attending** : Hong Kong Monetary Authority
Mr Raymond LI
Executive Director (Banking Development)
Mr Raymond CHAN
Acting Division Head (Banking Development)
Financial Services and the Treasury Bureau
Mr Edmond LAU
Principal Assistant Secretary (Financial Services)
Mrs Millie NG
Assistant Secretary (Financial Services)

Department of Justice

Mr Lawrence PENG
Senior Assistant Law Draftsman

Clerk in attendance : Miss Becky YU
Chief Council Secretary (1)1

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

Mrs Mary TANG
Senior Council Secretary (1)2

As Mr Albert HO, Chairman, had to leave for another appointment, Mr SIN Chung-kai was elected to chair the meeting.

I. Meeting with the Administration

- (LC Paper No. CB(1) 556/03-04(03) -- Draft Committee Stage amendments proposed by the Administration
- LC Paper No. CB(1) 683/03-04(01) -- List of follow-up actions arising from previous meetings (as at 31 December 2003)
- LC Paper No. CB(1) 683/03-04(02) -- Marked-up copy of Schedule 5 to the Bill incorporating the draft Committee Stage amendments as at 29 December 2003)

2. The Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
 - (a) provide the Administration's response to the latest concerns of the Law Society of Hong Kong; and
 - (b) relay to the future Deposit Protection Board the need to ensure that banks would not, for administrative convenience, include in contracts clauses that would jeopardize depositors' entitlement, particularly those beneficiaries of trusts, to compensation under the Deposit Protection Scheme.
4. The meeting ended at 10:00 am.

**Proceedings of the meeting of the
Bills Committee on Deposit Protection Scheme Bill
Meeting on Monday, 5 January 2004, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000220	Mr Albert HO Mr SIN Chung-kai Miss Margaret NG	Election of Chairman	
000221 - 003831	Mr SIN Chung-kai Miss Margaret NG Administration ALA6 Ms Audrey EU	<p>Concerns raised by Law Society of Hong Kong and continuation of clause-by-clause examination of the Bill</p> <p>Clause 25 - Entitlement to compensation: general</p> <p>(a) Beneficiaries of a trust might have to share the compensation depending on the nature of the trust;</p> <p>(b) Deletion of “agent” from clause 25(1)(b) was made at the request of the Hong Kong Bar Association as trust relationship covered agency relationship;</p> <p>(c) Compensation to be determined by Deposit Protection Board (the Board) on a case-by-case basis for accounts involving trusts;</p> <p>(d) Depositors’ liabilities to be set off against their protected deposits in determining entitlement to compensation; and</p> <p>(e) Determination of exchange rates by the Board under clause 25(4)(a)</p>	The Administration to provide its response to the latest concerns of the Law Society of Hong Kong

Time marker	Speaker	Subject(s)	Action required
003832 - 003938	Mr SIN Chung-kai ALA6 Administration	Clause 26 - Entitlement to compensation: depositors in their own right Whether words “deem to be” should be added before “a single and continuing body of persons” under clause 26(2)(a)	
003939 - 004555	Mr SIN Chung-kai Ms Audrey EU Administration	Clause 27 - Entitlement to compensation: bare trusts and client accounts	
004556 - 005914	Mr SIN Chung-kai Administration ALA6 Ms Audrey EU Mr NG Leung-sing	Clause 28 - Entitlement to compensation: trusts Concern that banks would, for the sake of administrative convenience, include in contracts clauses that would jeopardize depositors’ entitlement	The Administration to relay to the future Deposit Protection Board the need to ensure that banks would not, for administrative convenience, include in contracts clauses that would jeopardize depositors’ entitlement, particularly those beneficiaries of trusts, to compensation under the Deposit Protection Scheme

Time marker	Speaker	Subject(s)	Action required
005915 - 013133	Mr SIN Chung-kai ALA6 Administration Mr NG Leung-sing Ms Audrey EU	Clause 29 - Restrictions on entitlement to compensation (a) Compensation to persons under a client account held by a conveyancing solicitor; (b) Compensation to be claimed within five years from the date of specified event; (c) Compensation had to be paid to depositors rather than beneficiaries so that the Board could subrogate to depositors' rights to claim against the failed Scheme member; (d) Effect of contractual agreements between depositors and failed Scheme members on the entitlement to compensation; and (e) Need to explain the appeal channels available to beneficiaries who were dissatisfied with their share of compensation given to them by depositors	