

**立法會**  
**Legislative Council**

LC Paper No. CB(1) 1169/03-04  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/10/02/2

**Bills Committee on Deposit Protection Scheme Bill**

**Minutes of the Twelfth meeting**  
**held on Tuesday, 10 February 2004, at 10:45 am**  
**in Conference Room A of the Legislative Council Building**

**Members present** : Hon Albert HO Chun-yan (Chairman)  
Hon Fred LI Wah-ming, JP  
Hon NG Leung-sing, JP  
Hon Margaret NG  
Hon CHAN Kam-lam, JP  
Hon SIN Chung-kai

**Member absent** : Dr Hon Eric LI Ka-cheung, GBS, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Hon Bernard CHAN, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Ambrose LAU Hon-chuen, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Audrey EU Yuet-mee, SC, 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

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**I. Meeting with the Administration**

- (LC Paper No. CB(1) 556/03-04(03) -- Draft Committee Stage  
*(issued for the meetings on 11 and 22 December 2003)* amendments proposed by the  
Administration
- LC Paper No. CB(1) 683/03-04(02) -- Marked-up copy of Schedule 5 to  
*(issued for the meeting on 5 January 2004)* the Bill incorporating the draft  
Committee Stage amendments as at  
29 December 2003
- LC Paper No. CB(1) 950/03-04(01) -- List of follow-up actions arising  
from previous meetings (as at  
9 February 2004)
- LC Paper No. CB(1) 950/03-04(02) -- Submission from the Law Society  
of Hong Kong forwarded by the  
Administration at members'  
request (English version only)
- LC Paper No. CB(1) 950/03-04(03) -- Administration's paper on  
"Confidentiality")

The Committee deliberated (Index of proceedings attached at **Annex A**).

2. The Administration was requested to -
  - (a) provide past court cases on the interpretation of the phrase “suffer or permit” under the new clause 44(1)(a). To confirm whether it was a policy intention to impose a policing responsibility under the new clause 44(1)(a). To also consider retaining the original clause 44(1)(c) for the sake of clarity;
  - (b) review the application of clause 44(2) with reference to the Official Secrets Ordinance (Cap.521);
  - (c) consider capturing the fundamental principles of protected deposits in the principal ordinance while listing the exemptions in Schedule 1; and
  - (d) consider whether a higher threshold than simple majority should be set for resolutions to be passed by circulation under Schedule 2.
3. The meeting ended at 12:40 pm.

Council Business Division 1  
Legislative Council Secretariat  
2 March 2004

**Proceedings of the meeting of the  
Bills Committee on Deposit Protection Scheme Bill  
Meeting on Tuesday, 10 February 2004, at 10:45 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000908	Chairman Administration	Discussion on the paper on “Confidentiality” (LC Paper No. CB(1) 950/03-04(03))	
000909 - 004614	Miss Margaret NG Administration Chairman ALA6	<p>Clause 44(1) - Confidentiality</p> <p>(a) new clause 44(1) was better as it set out what should not be done;</p> <p>(b) need to ascertain the interpretation of the phrase “suffer or permit” under new clause 44(1)(a) having regard to past court cases or other legislation;</p> <p>(c) whether the word “matter” in new clause 44(1) would cover “records” in the original clause 44(1)(c);</p> <p>(d) whether it was a policy intention to impose a policing responsibility under new clause 44(1)(a); and</p> <p>(e) need to retain the original clause 44(1)(c) for the sake of clarity</p>	<p>The Administration to -</p> <p>(a) provide past court cases on the interpretation of the phrase “suffer or permit” under the new clause 44(1)(a);</p> <p>(b) confirm whether it was a policy intention to impose a policing responsibility under the new clause 44(1)(a); and</p> <p>(c) consider retaining the original clause 44(1)(c) for the sake of clarity</p>
004615 - 005516	Chairman Administration Miss Margaret NG	<p>Clauses 44 (2) to (5)</p> <p>Need to review the application of the provisions on confidentiality under clause 44(1) to former members of the Hong Kong Deposit Protection Board</p>	<p>The Administration to review the application of clause 44(2) with reference to the Official Secrets Ordinance (Cap. 521)</p>

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
005517 - 005608	Chairman	Clause 45 - Immunity	
005609 - 005950	Chairman Administration	Clause 46 - Power of Board to obtain information	
005951 - 010220	Chairman Administration	Clause 47 - False statements regarding Scheme membership and protected deposits  Clause 48 - Defences	
010221 - 010407	Chairman Administration	Clause 49 - Power of Board to make rules	
010408 - 010652	Chairman Administration	Clause 50 - Power of Chief Justice to make rules	
010653 - 010755	Chairman Administration	Clause 51 - Power of Monetary Authority to make rules	
010756 - 012055	Chairman Miss Margaret NG Administration ALA6	Clause 52 - Amendment of Schedules  (a) concern about the propriety of defining fundamentals such as “protected deposit” and “relevant deposit” under Schedule 1 instead of the principal ordinance, in an attempt to facilitate future amendments to the exemptions; and  (b) whether and how compensation in respect of deposits in the form of structured financial products should be made would depend on the terms and conditions of the contract with the Scheme member	The Administration to consider capturing the fundamental principles of protected deposits in the principal ordinance while listing the exemptions in Schedule 1
012056 - 014045	ALA6 Administration Miss Margaret NG Chairman	Clause 53 - Consequential and other amendments  Schedule 1 - Definition of “protected deposit” and “relevant deposit”	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
014046 - 014623	Chairman Administration	Schedule 2 - Provisions relating to Board	The Administration to consider whether a higher threshold than simple majority should be set for resolutions to be passed by circulation
014624 - 015402	Chairman Administration Mr NG Leung-sing	Schedule 3 - Provisions relating to Tribunal	
015403 - 015600	Chairman Administration	Date of next meeting	

Council Business Division 1  
Legislative Council Secretariat  
2 March 2004