

立法會
Legislative Council

LC Paper No. CB(1)73/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/BC/18/02

Bills Committee on Companies (Amendment) Bill 2003

**Minutes of the third meeting
held on Thursday, 2 October 2003, at 9:00 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Albert HO Chun-yan
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong, GBS
Hon Henry WU King-cheong, BBS, JP
- Members absent** : Hon Eric LI Ka-cheung, GBS, JP
Hon CHAN Kam-lam, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon Emily LAU Wai-hing, JP
- Public officers attending** : Financial Services and the Treasury Bureau

Ms Shirley LAM
Acting Deputy Secretary for Financial Services and
the Treasury (Financial Services) 2

Mrs Dorothy MA
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services) 1

Miss Jenny CHOI
Assistant Secretary for Financial Services and
the Treasury (Financial Services) 1

Mr Arthur AU
Assistant Secretary for Financial Services and
the Treasury (Financial Services) (4) 1

Companies Registry

Mr G W E Jones
Registrar of Companies

Ms D Silkstone
Registry Solicitor

Mr Edward LAU
Secretary, Standing Committee on
Company Law Reform

Department of Justice

Mr Allen LAI
Senior Government Counsel

Attendance by invitation : Securities and Futures Commission

Mr Ashley Alder
Executive Director

Mr William Pearson
Director

Ms Sonia LEUNG
Senior Manager

Hong Kong Small and Medium Enterprises Association

Mr Tony WONG
Director/Legal Advisor

Danish Business Association

Mr Jens-Erik Olsen
Chairman

Clerk in attendance : Ms Anita SIT
Chief Assistant Secretary (1)6

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Mr Matthew LOO
Senior Assistant Secretary (1)3

I Confirmation of minutes

LC Paper No. CB(1)2509/02-03 - Minutes of meeting on 11 September 2003

The minutes of the second meeting held on 11 September 2003 were confirmed.

II Meeting with deputations and the Administration

LC Paper No. CB(1)2504/02-03(01) - Submission from the Chinese General Chamber of Commerce

LC Paper No. CB(1)2504/02-03(02) - Submission from Standing Committee on Company Law Reform

LC Paper No. CB(1)2504/02-03(03) - Submission from Estate Agents Authority

LC Paper No. CB(1)2504/02-03(04) - Submission from Consumer Council

LC Paper No. CB(1)2504/02-03(05) - Submission from Office of the Privacy Commissioner for Personal Data, Hong Kong

LC Paper No. CB(1)2504/02-03(06) - Submission from the Hong Kong Mortgage Corporation Limited

LC Paper No. CB(1)2504/02-03(07) - Submission from Ms Alice CHAN, Lecturer, Department of Professional Legal Education, The University of Hong Kong

LC Paper No. CB(1)2504/02-03(08) - Submission from the Law Society of Hong Kong

- LC Paper No. CB(1)2504/02-03(09) - Submission from the Hong Kong Association of Banks
- LC Paper No. CB(1)2504/02-03(10) - Submission from the Association of International Accountants
- LC Paper No. CB(1)2504/02-03(11) - Submission from Linklaters
- LC Paper No. CB(1)2504/02-03(12) - Submission from the Stock Exchange of Hong Kong Limited
- LC Paper No. CB(1)2504/02-03(13) - Submission from the Hong Kong Institute of Company Secretaries
- LC Paper No. CB(1)2504/02-03(14) - Submission from Hong Kong Kwun Tung Industries and Commerce Association Limited/Hong Kong & Overseas Chinese Association of Commerce Limited
- LC Paper No. CB(1)2521/02-03(01) - Submission from the Hong Kong Chinese Enterprises Association
- LC Paper No. CB(1)2521/02-03(02) - Submission from School of Business, Hong Kong Baptist University
- LC Paper No. CB(1)2521/02-03(03) - Administration's response to written submissions from the Chinese General Chamber of Commerce, the Association of International Accountants and the Stock Exchange of Hong Kong Limited
- LC Paper No. CB(1)2521/02-03(04) - Administration's response to written submission from Consumer Council
- LC Paper No. CB(1)2521/02-03(05) - Administration's response to written submission from Office of the Privacy Commissioner for Personal Data, Hong Kong
- LC Paper No. CB(1)2521/02-03(06) - Administration's response to written submission from the Law Society of Hong Kong

- LC Paper No. CB(1)2521/02-03(07) - Administration's response to written submission from the Hong Kong Association of Banks
- LC Paper No. CB(1)2521/02-03(08) - Administration's response to written submission from Hong Kong Kwun Tung Industries and Commerce Association Limited/The Hong Kong & Overseas Chinese Association of Commerce Limited
- LC Paper No. CB(1)2521/02-03(09) - Summary of deputations' views on the Bill prepared by Legislative Council Secretariat (position as at 30 September 2003)

2. The submission from the Hong Kong Capital Markets Association (available in English only) and the Chinese version of the Administration's response to the written submission from the Office of the Privacy Commissioner for Personal Data were tabled at the meeting.

(Post-meeting note: The two papers were issued to members vide LC Paper No. CB(1)2537/02-03 on 3 October 2003.)

3. The Bills Committee received the views of the following organizations -
- (a) the Hong Kong Small and Medium Enterprises Association (HKSMEA); and
 - (b) the Danish Business Association.
4. HKSMEA undertook to provide a written submission to the Bills Committee after the meeting.
5. At the meeting, members requested the Administration and the Securities and Futures Commission (SFC) to consider the following matters -

Schedule 1 of the Bill

- (a) whether the words "*as it considers appropriate*" should be removed from the proposed section 38A(6) for the purpose of ensuring transparency of SFC's operation;
- (b) the appropriate manner in which the exemptions granted under proposed section 38A would be published to enhance transparency; and

Schedule 4 of the Bill

- (c) whether provisions should be added to make it clear that the requirement to disclose information or documents according to an order for inspection made by the court under the proposed section 152FA should override any contractual agreement on non-disclosure, and to exempt the specified corporation concerned from the contractual or common law liabilities arising from the disclosure.

III Any other business

Dates of next meeting

- 6. Members noted that, according to the timetable agreed at the previous meeting, the next meeting would be held on 17 October 2003 at 10:45 am.
- 7. There being no other business, the meeting ended at 10:00 am.
- 8. The index of proceedings of the meeting is at **Appendix**.

Council Business Division 1
Legislative Council Secretariat
15 October 2003

**Proceedings of the meeting of the
Bills Committee on Companies (Amendment) Bill 2003**

**3rd meeting on Thursday, 2 October 2003, at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000044	Chairman	Confirmation of minutes of meeting on 11 September 2003	
000045 - 000249	Chairman	Welcoming and introductory remarks	
000250 - 000910	Chairman Hong Kong Small and Medium Enterprises Association (HKSMEA)	Views of HKSMEA	
000911 - 000926	Chairman Danish Business Association (DBA)	Views of DBA	
000927 - 001130	Chairman	<ul style="list-style-type: none"> • Written submissions from other organizations not attending the meeting • Summary of deputations' views on the Bill prepared by Legislative Council Secretariat <i>(LC Paper No. CB(1) 2521/02-03 (09))</i> 	
001131 - 001739	Chairman Mr Albert HO HKSMEA	<u>Section 3 of Schedule 4 of the Bill</u> HKSMEA's concern about the scope of company records that were subject to inspection under proposed section 152FA	

Time marker	Speaker	Subject(s)	Action required
001740 - 002126	Chairman Securities and Futures Commission (SFC)	<u>Section 24 of Schedule 1 of the Bill</u> SFC's power to amend the Third, Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-first or Twenty-second Schedule, by order published in the Gazette under proposed section 360(6) - (9)	
002127 - 003006	Chairman Admin HKSMEA Mr Henry WU	<u>Section 3 of the Schedule 1 of the Bill</u> <ul style="list-style-type: none"> • HKSMEA's suggestion that in addition to the requirement under proposed section 38A(6) to publish in the Gazette the particulars of exemptions granted, SFC should also publish the reasons for the exemptions • Mr Henry WU's suggestion that the words "<i>as it considers appropriate</i>" be removed from proposed section 38A(6) to enhance transparency of SFC's operation 	Administration/SFC to take the follow-up action set out in paragraph 5(b) of the minutes Administration/SFC to take the follow-up action set out in paragraph 5(a) of the minutes
003007 - 003415	Chairman HKSMEA	Burden of compliance and the possibility of additional costs due to the amendments proposed in the Bill	

Time marker	Speaker	Subject(s)	Action required
003416 - 004714	Chairman Admin HKSMEA Mr SIN Chung-kai	<p><u>Section 3 of Schedule 4 of the Bill</u></p> <ul style="list-style-type: none"> • Restrictions under proposed section 152FC on disclosure of information obtained under section 152FA • The court may make an order under proposed section 152FA(3) limiting the use of the information obtained • HKSMEA's suggestion that certain information or documents of a company be carved out from proposed section 152FA, or disclosure of such information or documents be subject to a more stringent test 	HKSMEA undertook to provide suggestions on the scope of information to be carved out from proposed section 152FA for further consideration
004715 - 005738	Chairman Mr Albert HO Admin ALA7 HKSMEA	<p><u>Section 3 of Schedule 4 of the Bill</u></p> <p>The need for additional provisions to override common law and contractual liability of a specified corporation arising from the disclosure of information or documents in compliance with an order for inspection made by the court under the proposed section 152FA</p>	Administration to take the follow-up action set out in paragraph 5(c) of the minutes
005739 - 005823	Chairman Admin	Administration's response to deputations' views	
005824 - 005925	Chairman	Date of next meeting	