

立法會
Legislative Council

LC Paper No. CB(1)1492/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/03

Bills Committee on Clearing and Settlement Systems Bill

**Minutes of the second meeting held on
Friday, 26 March 2004, at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon SIN Chung-kai (Chairman)
Dr Hon David LI Kwok-po, GBS, JP
Hon NG Leung-sing, JP
Hon Bernard CHAN, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
- Members absent** : Hon Abraham SHEK Lai-him, JP
Hon Henry WU King-cheong, BBS, JP
- Public officers attending** : Mr James LAU, JP
Executive Director
(Monetary Management and Infrastructure Department)
Hong Kong Monetary Authority
- Mr Stanley CHAN
Senior Manager (Market Systems Policy Division)
Monetary Management and Infrastructure Department
Hong Kong Monetary Authority
- Mr Edmond LAU
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services)

Mr Clement CHAN
Assistant Secretary for Financial Services and the Treasury
(Financial Services)

Mr Jonothan ABBOTT
Senior Assistant Law Draftsman
Department of Justice

Ms Lonnie NG
Senior Government Counsel
Department of Justice

Clerk in attendance : Miss Salumi CHAN
Chief Council Secretary (1)5

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Rosalind MA
Senior Council Secretary (1)8

Action

- I. Meeting with the Administration**
- | | |
|-----------------------------------|---|
| (LC Paper No. CB(1)1376/03-04(01) | — Paper provided by the Administration on “Summary of Key Comments received before Gazettal of the Bill and the Administration’s Responses” |
| LC Paper No. CB(1)1376/03-04(02) | — Paper provided by the Administration on “Oversight and Institutional Arrangements” |
| LC Paper No. CB(1)1284/03-04(03) | — Paper provided by the Administration on “Summary of comments received and the Administration’s response” |
| LC Paper No. CB(1)1376/03-04(03) | — Paper provided by the Administration on “Policy Issues and General Principles (Parts 2, |

4 and 5 of the Bill)”)

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

Follow-up actions to be taken by the Administration

- Admin 2. At the request of the Bills Committee, the Administration agreed to take the following actions -
- (a) To strengthen the institutional arrangements to avoid any perceived or potential conflict of the Hong Kong Monetary Authority (HKMA)’s roles as an overseer as well as a system operator, the Administration was invited to consider the need to appoint an independent party to oversee the work of the new Policy and Oversight Division of HKMA. In this connection, the Administration was invited to take the following actions:
 - (i) To make reference to the arrangements for the Operations Review Committee to oversee the work of the Independent Commission Against Corruption (ICAC)’s investigative arm and the Trustees of the Hong Kong Special Administrative Region Government Land Fund Trust to oversee the operation of the Land Fund;
 - (ii) To provide details of the Administration’s proposal of establishing a subcommittee under the Exchange Fund Advisory Committee and consider setting out the relevant arrangements in the Bill; and
 - (iii) To provide information on the measures adopted by overseas economies to guard against any perceived or potential conflict of the central bank’s roles as both a system overseer and system operator/settlement institution/owner of certain key clearing and settlement system, in particular, whether an independent party was appointed to oversee the oversight work of the central bank.
 - (b) To address members’ concern about whether the clearing and settlement systems based and/or operating outside Hong Kong but accepting for clearing or settlement transfer orders denominated in Hong Kong dollars were covered by the Bill, the Administration was invited to take the following actions:
 - (i) To clarify whether the Bill (e.g. clause 51 (Power of Monetary Authority to require information to be given)) had extra-territorial effect and if so, to consider setting out the relevant arrangements in the Bill; and
 - (ii) To provide information on the practices adopted by overseas economies in this regard.

Follow-up actions to be taken by the Assistant Legal Adviser

3. At the request of the Chairman, Assistant Legal Adviser 3 (ALA3) undertook to take the following actions:

- (a) To provide information on whether the powers of the Operations Review Committee to oversee the work of ICAC's investigative arm were provided in legislation; and
- (b) To highlight the differences, if any, between the provisions governing the proposed Clearing and Settlement Systems Appeals Tribunal under the Bill and those of the Securities and Futures Appeals Tribunal and the Market Misconduct Tribunal under the Securities and Futures Ordinance (Cap. 571), as well as those of the Deposit Protection Appeals Tribunal under the Deposit Protection Scheme Bill.

Date of next meeting

4. The Chairman reminded members that the third meeting of the Bills Committee would be held on Thursday, 15 April 2004 at 2:30 pm for meeting with deputations and the Administration.

(Post-meeting note: As directed by the Chairman, the meeting scheduled for 15 April 2004 was cancelled. The third meeting of the Bills Committee would be held on Friday, 23 April 2004 at 8:30 am for meeting with deputations and the Administration.)

II. Any other business

5. There being no other business, the meeting ended at 12:00 noon.

Council Business Division 1
Legislative Council Secretariat
13 April 2004

Appendix

**Proceedings of the second meeting of the
Bills Committee on Clearing and Settlement Systems Bill
on Friday, 26 March 2004, at 10:45 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000106	Chairman	Welcoming and introductory remarks	
<i>Part A: Matters arising from the first meeting on 18 March 2004</i>			
000107-000437	Administration Chairman	Briefing by the Administration on the paper on “Summary of Key Comments received before Gazettal of the Bill and the Administration’s Responses” (LC Paper No. CB(1)1376/03-04(01))	
000438-001136	Administration	Briefing by the Administration on the paper on “Oversight and Institutional Arrangements” (LC Paper No. CB(1)1376/03-04(02))	
001137-001424	Chairman Administration	Proposal to delete clause 54(3) so that all designated systems, including the two systems operated by the Hong Kong Monetary Authority (HKMA), were required by law to comply with the oversight standards and requirements (Paragraph 3 of LC Paper No. CB(1)1376/03-04(02))	

Time marker	Speaker	Subject(s)	Action Required
001425-004428	Mr NG Leung-sing Administration Chairman Mr Bernard CHAN	<p>(a) Institutional arrangements to avoid any perceived or potential conflict of HKMA's roles as an overseer as well as a system operator</p> <p>(b) Appointment of an independent party to oversee the work of the new Policy and Oversight Division of HKMA</p> <p>(c) Reference to the arrangements for the Operations Review Committee to oversee the work of the Independent Commission Against Corruption's investigative arm and the Trustees of the Hong Kong Special Administrative Region Government Land Fund Trust to oversee the operation of the Land Fund</p> <p>(d) Proposal of establishing a subcommittee under the Exchange Fund Advisory Committee and the need for setting out the relevant arrangements in the Bill</p> <p>(e) Relevant institutional arrangements adopted by overseas economies</p>	<p>The Administration to take follow-up actions as required under paragraph 2(a) of the minutes</p> <p>ALA3 to provide the required information under paragraph 3(a) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
<i>Part B: Discussion on Parts 2, 4 and 5 of the Bill</i>			
004429-005329	Administration	Briefing by the Administration on the paper on “Policy Issues and General Principles (Parts 2, 4 and 5 of the Bill)” (LC Paper No. CB(1)1376/03-04(03))	
005330-011023	Mr NG Leung-sing Administration Chairman	<p>(a) Whether the power of the Monetary Authority (MA) to request information from system operators or settlement institutions of the systems provided for in the Bill was adequate and flexible (clause 51)</p> <p>(b) Whether the offence provision under clause 42(3) had adequate deterrent effect to ensure compliance of system operators or settlement institutions of the systems in the provision of information requested by MA</p> <p>(c) Whether the clearing and settlement systems based and/or operating outside Hong Kong but accepting for clearing or settlement transfer orders denominated in Hong Kong dollars were covered by the Bill</p>	The Administration to provide the required information under paragraph 2(b) of the minutes

Time marker	Speaker	Subject(s)	Action Required
011024-011150	Chairman Administration	Provisions governing the proposed Clearing and Settlement Systems Appeals Tribunal	ALA3 to provide the required information under paragraph 3(b) of the minutes
011151-011158	Chairman	Date of next meeting	

Council Business Division 1
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