

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1759/03-04  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/3/03

**Bills Committee on Clearing and Settlement Systems Bill**

**Minutes of the third meeting held on  
Friday, 23 April 2004, at 8:30 am  
in the Chamber of the Legislative Council Building**

- Members present** : Hon SIN Chung-kai (Chairman)  
Hon NG Leung-sing, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Hon Abraham SHEK Lai-him, JP  
Hon Henry WU King-cheong, BBS, JP
- Members absent** : Dr Hon David LI Kwok-po, GBS, JP  
Hon Bernard CHAN, JP  
Hon Ambrose LAU Hon-chuen, GBS, JP
- Public officers attending** : Mr James LAU, JP  
Executive Director  
(Monetary Management and Infrastructure Department)  
Hong Kong Monetary Authority
- Mr Esmond LEE  
Head (Market Systems Development Division)  
Monetary Management and Infrastructure Department  
Hong Kong Monetary Authority
- Mr Danny LEUNG  
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

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Action

**I. Confirmation of minutes of meetings**

(LC Paper No. CB(1)1453/03-04 — Minutes of first meeting held on  
18 March 2004

LC Paper No. CB(1)1492/03-04 — Minutes of second meeting held  
on 26 March 2004)

The minutes of the meetings held on 18 and 26 March 2004 were confirmed.

**II. Meeting with the Administration**

(LC Paper No. CB(1)1571/03-04(01) — “Follow-up to the first meeting  
on 18 March 2004” prepared by  
the Legislative Council  
Secretariat

LC Paper No. CB(1)1571/03-04(02) — “Follow-up to the second  
meeting on 26 March 2004”  
prepared by the Legislative

Action

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Council Secretariat

- LC Paper No. CB(1)1579/03-04(01) — Paper provided by the Administration on “Process Review Committee on Hong Kong Monetary Authority related Clearing and Settlement Systems”
- LS69/03-04 — Paper prepared by the Assistant Legal Adviser on “Comparison of provisions governing the proposed Clearing and Settlement Systems Appeals Tribunal under the Clearing and Settlement Systems Bill and other similar statutory tribunals”
- LC Paper No. CB(1)1571/03-04(03) — Written submission dated 6 April 2004 from the Hong Kong Exchanges and Clearing Limited (HKEx)
- LC Paper No. CB(1)1571/03-04(04) — The Administration’s response to the written submission from HKEx
- LC Paper No. CB(1)1571/03-04(05) — Paper provided by the Administration on “Policy Issues and General Principles (Part 3 of the Bill)”

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

Follow-up actions to be taken by the Administration

- Admin 3. At the request of the Bills Committee, the Administration agreed to take the following actions -
- (a) Given members’ support for the establishment of a Process Review Committee to review whether there were any discrepancies in the Hong Kong Monetary Authority (HKMA)’s oversight of the HKMA systems as compared to other systems, the Administration was invited to take the following actions:
- (i) To provide the draft terms of reference of the proposed Process Review Committee; and

- (ii) To prepare the relevant Committee Stage Amendments to the Bill in order to allow the passing of confidential information regarding HKMA's oversight activities to the proposed Process Review Committee.
  
- (b) On clause 37 of the Bill which provided for appeals to the Court of Appeal against determinations of the Clearing and Settlement Systems Appeals Tribunal (CSSAT) on a point of law, the Administration was invited to include an express provision providing that the lodging of an appeal to the Court of Appeal did not by itself operate as a stay of execution of a determination of the CSSAT unless the Court of Appeal otherwise ordered, similar to that provided in the Securities and Futures Ordinance (Cap. 571) in respect of the Securities and Futures Appeals Tribunal.
  
- (c) The Administration was invited to provide a further response to the written submission of the Hong Kong Exchanges and Clearing Limited.

Date of next meeting

4. The Chairman reminded members that the Bills Committee would commence clause-by-clause examination of the Bill at its next meeting to be held on Monday, 26 April 2004 at 2:30 pm.

*(Post-meeting note: On the direction of the Chairman, the meeting originally scheduled for 26 April 2004 was cancelled as a quorum was unlikely to be present for the meeting.)*

**III. Any other business**

5. There being no other business, the meeting ended at 9:05 am.

Council Business Division 1  
Legislative Council Secretariat  
10 May 2004

## Appendix

**Proceedings of the third meeting of the  
Bills Committee on Clearing and Settlement Systems Bill  
on Friday, 23 April 2004, at 8:30 am  
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000147	Chairman	(a) Confirmation of minutes of meetings on 18 and 26 March 2004  (b) Welcoming and introductory remarks	
<i>Part A: Matters arising from previous meetings</i>			
000148-000756	Administration	Briefing by the Administration on the paper on “Process Review Committee on Hong Kong Monetary Authority related Clearing and Settlement Systems” (LC Paper No. CB(1)1579/03-04(01))	
000757-001014	Mr NG Leung-sing	(a) Support for the proposal to establish a Process Review Committee  (b) Importance of having a “Chinese wall” between the operational and oversight teams of the Hong Kong Monetary Authority (HKMA) for clear segregation of duties  (c) Need to keep the Process Review Committee informed of any personnel	

Time marker	Speaker	Subject(s)	Action Required
		changes of the oversight team of HKMA	
001015-001156	Chairman	<p>(a) Support for the proposal to establish a Process Review Committee</p> <p>(b) Draft terms of reference of the proposed Process Review Committee</p> <p>(c) Relevant Committee Stage Amendments to the Bill to provide for the passing of confidential information regarding HKMA's oversight activities to the proposed Process Review Committee</p>	<p>The Administration to take follow-up actions as required under paragraph 3(a)(i) of the minutes</p> <p>The Administration to take follow-up actions as required under paragraph 3(a)(ii) of the minutes</p>
001157-001424	Administration	<p>Verbal response made by the Administration to members' question raised at the last meeting on whether the Bill had extra-territorial effect (Paper provided by the Administration on "Extra-territorial Effect" after the meeting was issued to members vide LC Paper No. CB(1)1600/03-04(01) on 23 April 2004)</p>	
001425-001857	Assistant Legal Adviser	<p>(a) Verbal response made by the Assistant Legal Adviser to members' question raised at the last meeting on whether the powers of</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		<p>the Operations Review Committee to oversee the work of the Independent Commission Against Corruption's investigative arm were provided in legislation</p> <p>(b) Briefing by the Assistant Legal Adviser on the paper on "Comparison of provisions governing the proposed Clearing and Settlement Systems Appeals Tribunal (CSSAT) under the Clearing and Settlement Systems Bill and other similar statutory tribunals" (LC Paper No. LS69/03-04)</p>	
001858-002216	<p>Chairman Assistant Legal Adviser Mr Henry WU Administration</p>	<p>Discussion on LC Paper No. LS69/03-04 -</p> <p>(a) Remuneration of members of tribunals</p> <p>(b) Need for an express provision in the Bill providing that the lodging of an appeal to the Court of Appeal did not by itself operate as a stay of execution of a determination of the CSSAT unless the Court of Appeal otherwise ordered</p>	<p>The Administration to take the follow-up action as required under paragraph 3(b) of the minutes</p>



Time marker	Speaker	Subject(s)	Action Required
<i>Part B: Written submission</i>			
002217-002534	Chairman Administration	(a) Administration's response to the written submission from the Hong Kong Exchanges and Clearing Limited (HKEx) (LC Paper No. CB(1)1571/03-04(04))  (b) Administration's undertaking to provide further response to HKEx's written submission	
<i>Part C: Discussion on Part 3 of the Bill</i>			
002535-003202	Administration	Briefing by the Administration on the paper on "Policy Issues and General Principles (Part 3 of the Bill)" (LC Paper No. CB(1)1571/03-04(05))	
003203-003432	Chairman Mr Henry WU Administration	Administration's further response to the written submission from HKEx	The Administration to provide the required information under paragraph 3(c) of the minutes
003433-003511	Chairman	Date of next meeting	