

立法會
Legislative Council

LC Paper No. CB(1)803/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/BC/9/10

Bills Committee on Pyramid Schemes Prohibition Bill

**Minutes of fourth meeting on
Thursday, 3 November 2011, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

- Members present** : Hon Fred LI Wah-ming, SBS, JP (Chairman)
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Hon Cyd HO Sau-lan
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN
- Members absent** : Hon WONG Ting-kwong, BBS, JP
Hon Starry LEE Wai-king, JP
Hon CHEUNG Kwok-che
- Public Officers attending** : Agenda item I

Mrs Alice CHEUNG
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry)

Mr YAU Kin-chung
Principal Assistant Secretary for Commerce and
Economic Development (Commerce and Industry)

Ms Angie LI
Senior Government Counsel
Department of Justice

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)6

Staff in attendance : Mr Bonny LOO
Assistant Legal Adviser 3

Mr Ken WOO
Council Secretary (1)6

Action

I Meeting with the Administration

(LC Paper No. CB(1)217/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 18 October 2011

LC Paper No. CB(1)217/11-12(02) — Administration's response to CB(1)217/11-12(01) and proposed Committee Stage amendments (CSAs) to the Bill

LC Paper No. CB(1)231/11-12(01) — Marked-up copy of the draft CSAs to the Bill prepared by the Legal Service Division)

Other relevant papers

(LC Paper No. CB(3)776/10-11 — The Bill

File Ref: CITB CR 05/18/13 Pt. VI — Legislative Council Brief issued by the Commerce and Economic Development Bureau

LC Paper No. LS70/10-11 — Legal Service Division Report

LC Paper No. CB(1)2567/10-11(01) — Assistant Legal Adviser's letter dated 10 June 2011 to the Administration

LC Paper No. CB(1)2567/10-11 (02) — Administration's response to CB(1)2567/10-11(01))

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

2. The Administration was requested to address the following in the speech of the Secretary for Commerce and Economic Development at the resumption of the Second Reading debate on the Bill –

- (a) give assurance to the public that due consideration would be given to the social background of the elderly and those with

little formal education when the prosecution was to consider whether to prosecute them for participating in pyramid schemes under the future Pyramid Schemes Prohibition Ordinance (the Ordinance); and

- (b) indicate the commencement date of the Ordinance, tentatively aimed at 1 January 2012.

3. The Chairman concluded that the Bills Committee had completed examination of the Bill and would report its deliberations to the House Committee on 25 November 2011. The Bills Committee noted that the Administration would resume the Second Reading debate on the Bill at the Council meeting on 7 December 2011, and that the deadline for giving notice for moving Committee Stage amendments, if any, to the Bill would be 28 November 2011.

II Any other business

- 4. There being no other business, the meeting ended at 10:52 am.

Council Business Division 1
Legislative Council Secretariat
13 January 2012

**Proceedings of the fourth meeting of
Bills Committee on Pyramid Schemes Prohibition Bill
on Thursday, 3 November 2011, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Meeting with the Administration</i>			
000115 – 000417	Chairman Administration Mr WONG Kwok-hing Ms Cyd HO	Briefing by the Administration on its response to the follow-up actions arising from the discussion at the meeting on 18 October 2011 and the proposed Committee Stage amendments (CSAs) (LC Paper No. CB(1)217/11-12(02)). Mr WONG's and Ms HO's expression of approval on the CSAs proposed.	
000418 – 000436	Chairman	The Chairman's indication of critical dates in the legislative timetable.	
000437 – 000615	Chairman Ms Cyd HO Administration	Ms HO's concern/request – (a) as in the case concerning Lehman Brothers-related minibonds and structured financial products, some members of the public, in particular the elderly and those with little formal education, might inadvertently join a pyramid scheme and become liable for prosecution as knowing participants under the law; and (b) the Administration should take the opportunity of the Second Reading debate on the Bill to assure the public that the prosecution would give due consideration to the social background of the elderly and those with little formal education when deciding whether to prosecute them for participating in pyramid schemes under the future ordinance. Administration's response – (a) the offence provision in the Bill was formulated in such a way that those who did not know the nature of their income would not be caught; (b) under the Bill, the requisite "mens rea" referred to the participant's knowledge (actual or constructive) that the benefit he or she might get was entirely or substantially derived from recruiting further new participants; and (c) the Administration would address the relevant concern at the resumption of the Second Reading debate on the Bill.	
000616 – 000716	Chairman Mr WONG Kwok-hing	Mr WONG's enquiry on whether shadow promoters of unlimited companies were subject to the regulation of the Bill.	

Time marker	Speaker	Subject(s)	Action required
	Administration	Administration's response that clause 6 of the Bill provided that if a member of an unincorporated body committed an offence under the Bill, a relevant person of the body was liable to the offence if it could be proved that the offence was committed with the consent or connivance of the relevant person, or was attributable to his neglect.	
000717 – 000822	Chairman Mr WONG Kwok-hing Administration	Chairman's and Mr WONG's suggestion on bringing the Pyramid Schemes Prohibition Ordinance into operation as soon as practicable, preferably on 1 January 2012. Chairman's request for the Administration to indicate the commencement date of the Pyramid Schemes Prohibition Ordinance at the resumption of the Second Reading debate.	

Council Business Division 1
Legislative Council Secretariat
13 January 2012