

Bills Committee on Trust Law (Amendment) Bill 2013

**Follow-up actions to be taken by the Administration
for the meeting on 27 May 2013**

Response to written submissions

1. The Administration was requested to provide written response to the following:

- (a) the submission of the Hong Kong Bar Association (LC Paper No. CB(1)1089/12-13(03));
- (b) the second submission from The Hong Kong Association of Banks (LC Paper No. CB(1)1089/12-13(05)); and
- (c) the second submission from Mr David GUNSON (LC Paper No. CB(1)1089/12-13(02)).

Statutory control of trustees' exemption clauses

2. The proposed new section 41W provides that a remunerated trustee acting in a profession or business is not exempt from liability for a breach of trust arising from the trustee's own fraud, wilful misconduct or gross negligence. Members are concerned about the relation between the new section and other similar provisions under the existing Ordinances governing the exemption clauses in contracts, in particular how the two would interact. Some members do not agree to the Administration's view that the law governing exemption clauses in contracts would not apply to trust deeds. The Administration was requested to provide written information to elaborate its position on this issue.