

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1704/12-13  
(These minutes have been seen  
by the Administration)

Ref : CB1/SS/9/12/1

**Subcommittee on Banking (Capital) (Amendment) Rules 2013 and  
Banking (Disclosure) (Amendment) Rules 2013**

**Minutes of the first meeting on  
Tuesday, 30 April 2013, at 4:30 pm  
in Conference Room 3 of the Legislative Council Complex**

**Members present** : Hon NG Leung-sing, SBS, JP (Chairman)  
Hon WONG Ting-kwong, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Christopher CHEUNG Wah-fung, JP  
Hon SIN Chung-kai, SBS, JP

**Member absent** : Hon CHUNG Kwok-pan

**Public officers** : Mr Jackie LIU  
**Attending** Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services) 5

Mr Richard CHU  
Head (Banking Policy)  
Hong Kong Monetary Authority

Ms Rita YEUNG  
Head (Banking Policy)  
Hong Kong Monetary Authority

Ms Echo CHAN  
Senior Manager (Banking Policy)  
Hong Kong Monetary Authority

Ms Theresa KWAN  
Senior Manager (Banking Policy)  
Hong Kong Monetary Authority

Mr Michael LAM  
Senior Assistant Law Draftsman  
Department of Justice

Ms Mandy NG  
Government Counsel  
Department of Justice

Mr Manuel NG  
Government Counsel  
Department of Justice

**Clerk in attendance** : Ms Connie SZETO  
Chief Council Secretary (1)4

**Staff in attendance** : Mr Bonny LOO  
Assistant Legal Adviser 3

Mr Hugo CHIU  
Council Secretary (1)4

Ms Sharon CHAN  
Legislative Assistant (1)4

## **I Election of Chairman**

Mr WONG Ting-kwong, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr NG Leung-sing was nominated by Mr Christopher CHEUNG and the nomination was seconded by Mr Alan LEONG. Mr NG Leung-sing accepted the nomination. There being no other nomination, Mr NG Leung-sing was elected Chairman of the Subcommittee.

3. Members agreed that there was no need to elect a Deputy Chairman.

Declaration of interests

4. Mr NG Leung-sing declared that he was a member of a bank listed in Hong Kong.

**II Meeting with the Administration**

(LC Paper No. CB(1)937/12-13(01) — Letter dated 16 April 2013 from Legal Service Division to the Administration

LC Paper No. CB(1)937/12-13(02) — Reply letter dated 19 April 2013 from the Administration to Legal Service Division

L.N. 51 of 2013 — Banking (Capital) (Amendment) Rules 2013

L.N. 52 of 2013 — Banking (Disclosure (Amendment) Rules 2013

File Ref: G4/16/44C — Legislative Council Brief

LC Paper No. LS39/12-13 — Legal Service Division Report

LC Paper No. CB(1)937/12-13(03) — Background brief on Subcommittee on Banking (Capital) (Amendment) Rules 2013 and Banking (Disclosure) (Amendment) Rules 2013 prepared by the Legislative Council Secretariat

LC Paper No. CB(1)937/12-13(04) — Marked-up copy of L.N. 51 of 2013 prepared by Legal Service Division (Restricted to Members)

LC Paper No. CB(1)937/12-13(05) — Marked-up copy of L.N. 52 of 2013 prepared by Legal Service Division (Restricted to Members))

Discussion

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

**III Any other business**

6. Members agreed to invite written submissions on the two sets of rules from the four relevant banking organizations, namely the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, The Hong Kong Association of Banks and The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies and to post a notice in the website of the Legislative Council to invite written views from the public. In order to allow time for the public to express views, members agreed that the Chairman of the Subcommittee would move a motion at the Council meeting of 8 May 2013 to extend the scrutiny period to 5 June 2013.

*(Post-meeting note: The Subcommittee sent a letter to the four relevant banking organizations on 30 April 2013 to invite their written views. A notice on invitation for written submissions was posted at the website of the Legislative Council on 2 May 2013.)*

Legislative timetable and report to the House Committee

7. Noting the Administration's confirmation that the capital and disclosure requirements prescribed in the two sets of rules were fully consistent with the latest international standards promulgated by the Basel Committee on Banking Supervision without any material modifications or deviations, the Chairman concluded that the Subcommittee had completed scrutiny of the two sets of rules. Members noted that if the scrutiny period was extended to 5 June 2013, the Chairman would report the Subcommittee's deliberations to the House Committee on 24 May 2013 and the deadline for giving notice of amendment to the rules was 29 May. The Subcommittee further agreed that written submissions, if any, from the four relevant banking organizations and the public, would be circulated to members. Subject to views members might have on the written submissions, no further meeting would be held.

*(Post-meeting note: The Chairman made a verbal report on the Subcommittee's deliberations to the House Committee on 10 May 2013.)*

8. There being no other business, the meeting ended at 5:07 pm.

**Proceedings of the  
Subcommittee on Banking (Capital) (Amendment) Rules 2013 and  
Banking (Disclosure) (Amendment) Rules 2013  
First meeting on Tuesday, 30 April 2013, at 4:30 pm  
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000427 – 000636		Election of Chairman	
000637 – 000742	Chairman	Introductory remark and declaration of interests	
000743 – 001252	Administration HKMA	Briefing by the Administration and the Hong Kong Monetary Authority ("HKMA") on the background of introducing the Basel III capital standards, the justifications for making the two sets of amendment rules, and the major provisions of the rules. The Administration confirmed that the requirements prescribed in the two sets of amendment rules were fully consistent with the Basel III disclosure and capital requirements promulgated by the Basel Committee on Banking Supervision without any material modifications or deviations.	
001253 – 001746	Mr WONG Ting-kwong HKMA	<p>Mr WONG enquired about:</p> <ul style="list-style-type: none"> <li>(a) whether the banking sector had experienced any difficulties in implementing the new requirements under the first phase of Basel III capital standards which came into effect on 1 January 2013;</li> <li>(b) whether the two sets of amendment rules would have adverse impacts on the capital requirements of banks, especially the small and medium-sized ones; and</li> <li>(c) whether there had been changes in the capital adequacy ratio of banks in Hong Kong, which stood at 15.8% at the end of 2012.</li> </ul> <p>HKMA replied as follows:</p> <ul style="list-style-type: none"> <li>(a) A two-stage consultation had been conducted with the banking sector on the legislation proposals for the implementation of Basel III capital framework, with the first stage covering the policy framework and the second stage focusing on the draft provisions in the</li> </ul>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>amendment rules. The views/comments expressed which were technical in nature had been addressed and/or taken into account where appropriate in finalizing the two sets of rules.</p> <p>(b) HKMA had recently conducted a test run for all locally-incorporated authorized institutions ("AIs") in Hong Kong to report their capital positions substantially based on the capital standards under Basel III. The results indicated that all AIs could meet the Basel III capital requirements without difficulty.</p> <p>(c) The Banking (Capital) (Amendment) Rules 2013 would mainly affect large banks as it clarified certain capital treatment for counterparty credit risk and exposures to central counterparties. Such amendments would affect the transactions of over-the-counter derivatives, the majority of which were conducted by large AIs. The Banking (Disclosure) (Amendment) Rules 2013 prescribed the disclosure requirements by AIs in respect of their capital base under the Basel III framework which already took effect on 1 January 2013 and thus would not result in additional capital costs on AIs. The amendment rules would not have any negative impacts on the operation of AIs in Hong Kong.</p> <p>(d) The capital adequacy ratio of 15.8%, which was compiled on the basis of the old Basel capital requirements, remained more or less the same since the end of 2012. The recent test run revealed that all AIs in Hong Kong had maintained their minimum capital ratio requirements which far exceeded those required under the Basel III framework.</p>	
001747 – 001856	Chairman	<p>The Chairman remarked that as he understood from the banking sector:</p> <p>(a) the Basel III new capital requirements in general would have no adverse impact on AIs in Hong Kong as they had been maintaining high capital adequacy ratios;</p>	

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		<p>(b) while some small and medium-sized AIs had previously expressed concern about the delay of some major jurisdictions (like the European Union and the United States) in implementing the Basel III requirements might cause competitive disadvantages to AIs in Hong Kong, no AIs had encountered implementation problem of or had negative feedback about the Basel III new capital requirements so far; and</p> <p>(c) in accordance with the statutory requirement under sections 60A and 97C of the Banking Ordinance (Cap. 155), the Financial Secretary, the Banking Advisory Committee ("BAC"), the Deposit-taking Companies Advisory Committee ("DTCAC"), the Hong Kong Association of Banks ("HKAB"), and The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies ("DTCA") had been consulted on the amendment rules.</p>	
<b>Clause-by-clause examination of the subsidiary legislation</b>			
001857 – 002452	Chairman Administration ALA3	<p>Given the technical nature of the amendment rules, the Chairman invited the Administration to highlight and explain to members the major amendments in the rules, in particular if there were deviations/modifications from Basel III standards which were necessary to accommodate the unique circumstances of Hong Kong.</p> <p>The Administration advised that the amendments proposed in the two sets of rules were fully consistent with the Basel III disclosure and capital standards and no modifications had been introduced. The BAC, DTCAC, HKAB and DTCA had been consulted on the draft provisions of the rules and their comments, which were mainly technical in nature, had been incorporated where appropriate.</p> <p>In response to the Chairman's enquiry, ALA3 remarked that in the course of scrutinizing the amendment rules, he had raised some technical and drafting matters which had been addressed by the Administration. He had no further follow-up on the matters.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Chairman remarked that the banking sector did not convey the need of further consultation on the amendment rules.</p> <p>Noting the above, the Chairman concluded that the Subcommittee had completed scrutiny of the two sets of amendment rules.</p>	
<b>Invitation of written submission and report to the House Committee</b>			
002453 – 003805	<p>Mr SIN Chung-kai Chairman</p> <p>Mr WONG Ting-kwong Administration</p> <p>Mr Alan LEONG Clerk ALA3</p>	<p>Members noted that the amendment rules would come into operation on 30 June 2013. On the legislative timetable, the scrutiny period would expire on 15 May if no extension was obtained and the Subcommittee needed to report to the House Committee on 3 May. If a motion to extend the scrutiny period ("the extension motion") was passed by the Legislative Council ("LegCo") at the meeting of 8 May (or 15 May), the scrutiny period would be extended to 5 June and the Subcommittee would report to the House Committee on 24 May.</p> <p>Mr SIN suggested that in line with the usual practice of LegCo, the Subcommittee should invite written views from the banking sector by issuing letters to the four relevant banking organisations and the public through posting a notice at the LegCo website.</p> <p>The Administration pointed out that the HKMA had consulted the major stakeholders (i.e. BAC, DTCAC, HKAB and DTCA) on the draft legislation one month before the gazettal of the subsidiary legislation and believed that the organisations could provide prompt responses upon request by the Subcommittee.</p> <p>Members agreed to Mr SIN's suggestion above, and to extend the scrutiny period of the two sets of rules to 5 June 2013 in order to allow time for the public to express their views. The Subcommittee would report to the House Committee on 24 May 2013. (<i>Post-meeting note:</i> The Chairman made a verbal report on the Subcommittee's deliberations to the House Committee on 10 May 2013.)</p> <p>As the LegCo would likely be occupied with the Debate on the Appropriation Bill 2013, Mr WONG was concerned that the Council meeting of 8 May (or 15 May) might not be able to deal with the</p>	



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		<p>extension motion. Given that the amendment rules were highly technical and the Administration and HKMA had already consulted the relevant stakeholders, it was not envisaged that the banking sector or the public would have views on the rules.</p> <p>Mr SIN remarked that the Subcommittee should complete the due process of seeking views from the banking sector and the public on the amendment rules even without seeking extension on the scrutiny period.</p> <p>Mr LEONG enquired about the impact of the Debate on the Appropriation Bill 2013 on the moving of the extension motion at the Council meeting of 8 May or 15 May.</p> <p>The Clerk advised that the motion on the extension of scrutiny period was a Member's motion, which would be dealt with after the Bills. Thus, it was possible that the extension motion could not be moved if the Debate on and the Third Reading of the Appropriation Bill 2013 could not be completed at the Council meeting of 8 May or 15 May.</p> <p>ALA3 supplemented that the amendment rules were subsidiary legislation subject to the negative vetting procedure of LegCo. He confirmed Mr LEONG's understanding that the amendment rules would commence operation on 30 June 2013 if the extension motion could not be dealt with at the Council meeting of 8 May or 15 May.</p> <p>The Subcommittee affirmed its earlier decision to invite views from the banking sector and the public on the amendment rules, and to move the extension motion at the Council meeting of 8 May 2013 to extend the scrutiny period to 5 June 2013.</p> <p>The Subcommittee agreed that the submissions from the banking sector and the public would be circulated to members for reference. Subject to views members might have on the submissions, no further meeting would be held.</p>	