

立法會
Legislative Council

LC Paper No. CB(1)2037/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/BC/9/13/1

**Bills Committee on Securities and Futures and Companies Legislation
(Uncertificated Securities Market Amendment) Bill 2014**

**Minutes of the First meeting on
Friday, 18 July 2014, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon Christopher CHEUNG Wah-fung, SBS, JP (Chairman)
Hon CHAN Kam-lam, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon Charles Peter MOK, JP
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP
- Members absent** : Hon Abraham SHEK Lai-him, GBS, JP
Hon Starry LEE Wai-king, JP
Hon Kenneth LEUNG
- Public officers attending** : Miss Salina YAN, JP
Deputy Secretary for Financial Services and the
Treasury (Financial Services)1
- Ms Ada CHAN
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services)2
- Mr Billy AU
Assistant Secretary for Financial Services and the
Treasury (Financial Services)(2)1

Attendance by invitation : Mr Keith LUI
Executive Director (Supervision of Markets)
Securities and Futures Commission

Mr Rico LEUNG
Senior Director (Supervision of Markets)
Securities and Futures Commission

Ms Thrity MUKADAM
Director (Supervision of Markets)
Securities and Futures Commission

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

Staff in attendance : Mr YICK Wing-kin
Assistant Legal Adviser 8

Ms Angel SHEK
Senior Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

I Election of Chairman

Mr CHAN Kam-lam, the member with the highest precedence among those who were present at the meeting, presided over the election of the Chairman of the Bills Committee. He invited nominations for the chairmanship of the Bills Committee.

2. Mr Christopher CHEUNG was nominated by Mr Andrew LEUNG and the nomination was seconded by Mr Charles Peter MOK. Mr Christopher CHEUNG accepted the nomination. There being no other nomination, Mr Christopher CHEUNG was elected Chairman of the Bills Committee.

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

Late membership

4. Members agreed to accept the application from Mr Dennis KWOK for late membership of the Bills Committee.

II Meeting with the Administration

- (LC Paper No. CB(3)720/13-14 — The Bill
- LC Paper No. CB(1)1790/13-14(01) — Marked-up copy of the Bill prepared by the Legal Service Division (Restricted to Members)
- File Ref: CO/2/10C (2014) — Legislative Council Brief
- LC Paper No. LS67/13-14 — Legal Service Division Report
- LC Paper No. CB(1)1790/13-14(02) — Background brief on Securities and Futures and Companies Legislation (Uncertificated Securities Market Amendment) Bill 2014 prepared by the Legislative Council Secretariat)

Disclosure

5. The Chairman said that he was a securities trader and held shares of a securities firm.

Discussion

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

(Post-meeting note: The notes of the powerpoint presentation (LC Paper No. CB(1)1840/13-14(01)) were issued to members vide Lotus Notes e-mail on 18 July 2014.)

Follow-up actions to be taken by the Administration

7. The Administration was requested to explain the operation and process in respect of trading/transfer of shares in uncertificated form under the uncertificated securities market regime, in particular, with clarification on the following issues—

- (a) proof of share ownership for trading/transfer and margin financing;
- (b) share trading/transfer by an investor who might engage different intermediaries or securities firms from time to time;
- (c) options for investors to receive dividend payment and fees (if any);
and
- (d) registration and disclosure of shareholders' names and other information (such as amount of shares owned) in relation to requirements under the Companies Ordinance (Cap. 622).

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(1)2035/13-14 on 29 September 2014.)

III Any other business

Invitation of views

8. Members agreed to post a notice on the website of the Legislative Council ("LegCo") and write to the 18 District Councils ("DCs") to invite views from the public and DCs on the Bill. Members also decided that the Bills Committee would meet with deputations to receive views on the Bill at the second meeting.

(Post-meeting note: The notice was posted on the LegCo website on 21 July 2014 and letters were sent to DCs and relevant organizations on 23 July 2014.)

Date of next meeting

9. Members agreed that the second meeting to meet with deputations be held in early October 2014. The Chairman said that he would work out the date with the Clerk and inform members accordingly.

(Post-meeting note: With the concurrence of the Chairman, the second meeting was scheduled for Monday, 6 October 2014 from 2:30 pm to 6:30 pm to meet with deputations, the Administration and other relevant parties. The notice of meeting was issued vide LC Paper No. CB(1)1850/13-14 on 22 July 2014.)

10. There being no other business, the meeting ended at 3:40 pm.

**Proceedings of the Bills Committee on Securities and Futures and
Companies Legislation (Uncertificated Securities Market Amendment) Bill 2014
First meeting on Friday, 18 July 2014, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000209 – 000345	Mr CHAN Kam-lam Mr Andrew LEUNG Mr Charles Peter MOK Mr Christopher CHEUNG	Election of Chairman	
000346 – 000626	Chairman Mr SIN Chung-kai	Late membership	
000627 – 002728	Chairman Administration Securities and Futures Commission ("SFC")	Briefing by the Administration and SFC on the Securities and Futures and Companies Legislation (Uncertificated Securities Market Amendment) Bill 2014 ("the Bill") to enable the introduction of an uncertificated securities market regime in Hong Kong ("the proposed regime"). (LC Paper No. CB(1)1840/13-14(01))	
002729 – 003915	Chairman Mr CHAN Kam-lam Administration SFC	<p>Mr CHAN welcomed the Bill which would enhance overall efficiency of the securities market and ensure Hong Kong would be on a par with market developments. He expressed the following views and enquiries –</p> <p>(a) the Administration should set a concrete timeframe for implementing a fully uncertificated securities market so as to provide clarity and certainty to market participants and investors, and enable their early preparation. This would also avoid market confusion arising from operation of a dual system (i.e. implementation of paper-based and uncertificated securities systems in parallel), and facilitate cross-boundary stock trading in future;</p> <p>(b) the Administration should work out the arrangements accordingly and put in place the relevant system infrastructures for implementing the proposed regime as soon as possible; and</p> <p>(c) enhanced investors' choice under the proposed regime in terms of the form and control over their holdings (e.g. the option to convert existing paper-based securities into</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>uncertificated form) might adversely affect the viability of some market intermediaries.</p> <p>The Administration and SFC responded that -</p> <ul style="list-style-type: none"> (a) the aim was to implement the proposed regime as soon as practicable and shorten the transitional period, taking into account experience in system operation, market readiness, investors' adaption, and the need for a phased and orderly arrangement for Hong Kong companies to participate in the proposed regime; (b) consideration would be given to whether all companies applying for listing in Hong Kong should be required to adopt the uncertificated operational model; (c) to expedite implementation of the proposed regime, SFC had been working on the legislative proposals of relevant subsidiary legislation for public consultation, and SFC, the Hong Kong Exchanges and Clearing Company Limited ("HKEx") and the Federation of Share Registrars had set up a working group ("the Working Group") to work out the detailed operational arrangements; and (d) under the proposed regime, investors might choose to hold their shares in paper/uncertificated form, and in their own names or in the name of a nominee (e.g. broker or bank), having regard to their preferred mode/frequency of shares trading. 	
003916 – 004758	Chairman Mr SIN Chung-kai Administration SFC	<p>Mr SIN considered that the proposed regime should be implemented as soon as possible to enable Hong Kong to catch up with market developments. He enquired about the reasons for applying the proposed regime to listed shares only in the initial phase, and arrangements for other listed securities such as debentures and unit trusts.</p> <p>The Administration and SFC explained that –</p> <ul style="list-style-type: none"> (a) the Bill aimed to remove, or provide exceptions to, the limitations imposed by 	

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		<p>relevant provisions in the Companies Ordinance ("CO") (Cap. 622) and Stamp Duty Ordinance (Cap. 117) which compelled the use of paper documents for transfer of securities;</p> <p>(b) the proposed regime would apply to all listed securities, and "prescribed securities" would refer to those securities which would be specified by class/description in a new Schedule 3A to the Securities and Futures Ordinance (Cap. 571). Since the initial focus of the proposed regime was on shares, the new Schedule 3A would only specify shares at the outset;</p> <p>(c) unlike shares, unit trusts were seldom held by investors in their own names outside the Central Clearing and Settlement System ("CCASS") whereas debentures/bonds were mostly traded over the counter instead of on the exchange; and</p> <p>(d) in view of the complexity and expected larger volume of legislative amendments that would be needed for dealing with all listed securities at one time, as well as other considerations such as investors' interests associated with shares in terms of shareholders' rights (e.g. voting rights), it was considered appropriate to focus the legislative exercise on shares first so as to avoid delaying the schedule of introducing the proposed regime.</p>	
004759 – 005429	Chairman Mr Andrew LEUNG Administration	<p>Mr LEUNG's views that the Administration should –</p> <p>(a) set the timeframe after which investors could no longer convert their shares from uncertificated back to paper form so that investors could adapt to holding shares in electronic form early; and</p> <p>(b) actively consider including debentures and unit trusts as "prescribed securities" under the proposed regime as investors would welcome this because they would no longer be required to pay the \$5 fixed rate stamp duty if such securities could be transferred without an instrument.</p>	

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		<p>The Administration advised that it would actively consider the suggestions having regard to market readiness.</p>	
<p>005430 – 010711</p>	<p>Chairman Mr CHAN Kam-kam Mr Andrew LEUNG The Administration SFC</p>	<p>Disclosure of interest by the Chairman</p> <p>The Chairman expressed the following views –</p> <ul style="list-style-type: none"> (a) the securities firms generally supported implementation of the proposed regime as long as there would not be substantial impact on intermediaries' operating cost; (b) investors, in particular retirees who relied on share dividends for their living expenses, were concerned about available options for payment of dividends under the proposed regime and relevant fees (if any); (c) some investors might not wish to hold their uncertificated shares in the name of a nominee, or disclose their names on the register of members of participating companies ("members' register"); (d) disclosure of securities firms' names on the members' register for shares held in their names on behalf of clients would incidentally disclose the size of positions held by individual firms; and (e) whether margin financing could be conducted in respect of uncertificated securities. <p>Mr CHAN asked whether investors who held their securities in uncertificated form could have the option not to disclose their names on the members' register.</p> <p>Mr LEUNG pointed out that disclosure of shareholders' names was an existing requirement under CO, rather than a new arrangement arising from the proposed regime.</p> <p>The Administration and SFC advised that –</p> <ul style="list-style-type: none"> (a) under the proposed regime, investors might choose to hold their securities in their own names or in the name of a nominee, and hold 	

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		<p>their securities through an account that they could control directly or through an account controlled by their nominee;</p> <p>(b) if investors registered their uncertificated shares in their own names, their names would be disclosed on members' register (uncertificated shares). If investors did not wish so, they could choose to hold their uncertificated shares in the name of a nominee. There would be issues of legal ownership if investors' names were not disclosed on members' register for shares registered in their own names;</p> <p>(c) margin financing could be conducted between the broker and his client for uncertificated shares by, for instance, registering the shares in a bank's name or holding the shares through an account that could be controlled by the bank; and</p> <p>(d) the Working Group would discuss with the industry issues relating to (a) and (c) above as well as the options of provision of corporate action services, including dividend payment, to investors.</p>	
010712 – 010810	Chairman Mr SIN Chung-kai Mr Andrew LEUNG	Invitation of public views	
010811 – 011021	Chairman Mr CHAN Kam-lam Mr Andrew LEUNG	<p>At the request of Mr CHAN and Mr LEUNG, the Administration agreed to provide a paper to explain the operation and process in respect of trading/transfer of shares in uncertificated form under the proposed regime, in particular, with clarification on the following issues–</p> <p>(a) proof of share ownership for trading/transfer and margin financing;</p> <p>(b) share trading/transfer by an investor who might engage different intermediaries or securities firms from time to time;</p> <p>(c) options for investors to receive dividend payment and fees (if any); and</p>	The Administration to take action as required in paragraph 7 of the minutes.

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		(d) registration and disclosure of shareholders' names and other information (such as amount of shares owned) in relation to requirements under CO.	
011022 – 011116	Chairman Mr Andrew LEUNG	Date of next meeting	

Council Business Division 1
Legislative Council Secretariat
29 September 2014