

立法會
Legislative Council

LC Paper No. CB(1)549/14-15
(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 second meeting on
Monday, 20 October 2014, at 10:45 am
in Conference Room 2A 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 Starry LEE Wai-king, JP
Hon Charles Peter MOK, JP
Hon Kenneth LEUNG
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP
- Member absent** : Hon Abraham SHEK Lai-him, GBS, JP
- Public officers attending** : 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 : Securities and Futures Commission
Mr Keith LUI
Executive Director (Supervision of Markets)

Mr Rico LEUNG
Senior Director (Supervision of Markets)

Ms Thrity MUKADAM
Director (Supervision of Markets)

Ms Mary Therese AHERN
Consultant

Deputations

Federation of Share Registrars Limited

Mr Allan TONG
Chairman

The Lion Rock Institute

Mr Andrew SHUEN
Research Director

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

Action

I Confirmation of minutes of meeting

(LC Paper No. CB(1)2037/13-14 — Minutes of the meeting on
18 July 2014)

The minutes of the meeting held on 18 July 2014 were confirmed.

II Meeting with deputations and the Administration

Meeting with deputations

(LC Paper No. CB(1)2035/13-14(01) — Submission from Federation of Share Registrars Limited (English version only)

LC Paper No. CB(1)57/14-15(01) — Submission from The Lion Rock Institute (Chinese version only)

Submissions/letters from organizations not attending the meeting

(LC Paper No. CB(1)2035/13-14(02) — Submission from The Law Society of Hong Kong (English version only)

LC Paper No. CB(1)2035/13-14(03) — Submission from The Hong Kong Association of Banks (English version only)

LC Paper No. CB(1)2035/13-14(04) — Submission from Hong Kong Securities Association (Chinese version only)

LC Paper No. CB(1)2035/13-14(05) — Submission from Consumer Council (English version only)

LC Paper No. CB(1)2035/13-14(06) — Submission from The Hong Kong Institute of Chartered Secretaries (English version only)

LC Paper No. CB(1)2035/13-14(07) — Submissions from CLP Holdings Limited (English version only)

LC Paper No. CB(1)2035/13-14(08) — Submissions from Hong Kong Exchanges and Clearing Limited (English version only)(restricted to members only)

LC Paper No. CB(1)57/14-15(02) — Submission from Hong Kong Bar Association (English version only)

Meeting with the Administration

(LC Paper No. CB(1)2035/13-14(09) — List of follow-up actions arising from the discussion at the meeting on 18 July 2014

LC Paper No. CB(1)2035/13-14(10) — Administration's response to the issues arising from the meeting held on 18 July 2014

LC Paper No. CB(1)2035/13-14(11) — Letter dated 27 August 2014 from Legal Service Division to the Administration)

Relevant papers previously issued

(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 only)

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)

2. The Chairman welcomed representatives of the Administration and deputations to the meeting. He reminded the deputations that their written submissions provided to the Bills Committee and views presented at the meeting would not be covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382).

Disclosure of interests

3. The Chairman said that he was the owner of a securities firm.

Discussion

4. The Bills Committee received views from two deputations attending the meeting, and noted the eight written submissions from organizations which did not attend the meeting.
5. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).
6. The Administration was requested to provide a consolidated written response to the views expressed by deputations at the meeting and in the written submissions.
7. The Bills Committee agreed to invite representatives of Hong Kong Exchanges and Clearing Limited ("HKEx") to attend the next meeting to discuss issues relating to the operation of the proposed uncertificated securities market ("USM") regime, in particular the role of HKEx, of which its subsidiary, Hong Kong Securities Clearing Company Limited ("HKSCC"), would be the operator of the USM system, the division of work between HKSCC and the share registrars with regard to corporate action issues (such as dividend payment arrangements and the relevant fees), and how the arrangements would protect the interest of investors.

III Any other business

Date of next meeting

8. The Chairman reminded members that the next meeting would be held on 17 November 2014 at 10:45 am.
9. There being no other business, the meeting ended at 12:10 pm.

Council Business Division 1
Legislative Council Secretariat
16 February 2015

**Proceedings of the
Bills Committee on Securities and Futures and Companies Legislation
(Uncertificated Securities Market Amendment) Bill 2014
Second meeting on Monday, 20 October 2014, at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
000258 – 000313	Chairman	Confirmation of minutes	
000314 – 000633	Chairman	Opening remarks	
Presentation of views by deputations and the Administration's initial responses			
000634 – 002014	Chairman Federation of Share Registrars Limited ("FSRL") Administration Securities and Futures Commission ("SFC")	<p>Presentation of views by FSRL (LC Paper No. CB(1)2035/13-14(01))</p> <p>Initial responses of the Administration and SFC to FSRL's views –</p> <p>(a) the working group comprising representatives of SFC, Hong Kong Exchanges and Clearing Limited ("HKEx") and FSRL (collectively "the Working Group") was discussing the operational details for the proposed uncertificated securities market ("USM") regime, including corporate action services, and would consult the industry on the proposals under the relevant subsidiary legislation when ready;</p> <p>(b) investors could register shares in their own names or in the name of a nominee under the proposed USM regime. Corporate action services would be administered according to account type and legal ownership of shares;</p> <p>(c) share registrars in general wished to provide corporate action services to registered shareholders directly without going through a third party;</p> <p>(d) the fee schedules of Hong Kong Securities Clearing Company Limited ("HKSCC") would be subject to SFC's approval under the guiding principles that the fees should be reasonable for all parties concerned, commensurate with services provided, and conducive to encouraging market development etc; and</p>	

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		<p>(e) depending on the time required for HKSCC and other major services providers to install and conduct tests for the new systems, it was expected that the trial run of the proposed USM regime would be conducted by mid 2017.</p>	
002015 – 003045	Chairman The Lion Rock Institute ("LRI") Administration SFC	<p>Presentation of views by LRI (LC Paper No. CB(1)57/14-15(01))</p> <p>Initial responses of the Administration and SFC to LRI's views –</p> <p>(a) the proposed USM regime would enable Hong Kong to align with the relevant international practice. The initiative would be implemented in phases, including a transitional period during which a dual system would operate (i.e. the existing paper-based system would operate in parallel with the proposed USM system);</p> <p>(b) a USM system operator had to meet the relevant requirements set by SFC, and it should act in the public interest, including ensuring the proper keeping of members registers (uncertificated shares) of the participating companies; and</p> <p>(c) the Working Group would discuss arrangements to enable uncertificated shares to be charged or mortgaged for margin financing.</p>	
003046 – 004324	Chairman Mr CHAN Kam-lam Mr SIN Chung-kai Administration SFC FSRL	<p>Mr CHAN considered that the Administration and SFC should convey clearly to the market the timeframe for implementing the proposed USM regime and the fee arrangements to facilitate early preparation by market intermediaries and investors.</p> <p>FSRL expressed support for implementation of the proposed USM regime and stressed that –</p> <p>(a) the proposed regime should be implemented as early as possible once the relevant legislation had been put in place; and</p>	

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		<p>(b) operation of corporate actions under the USM regime should be simple and straightforward with a view to driving down the fees for the industry and investors.</p> <p>Mr SIN opined that –</p> <p>(a) the proposed USM regime would enhance linkages with other uncertificated securities markets including the Mainland;</p> <p>(b) the Administration could take into account the progress of system enhancement and market readiness in determining the commencement date of the Bill; and</p> <p>(c) there should be room for cost/fee reduction under the proposed USM regime in the long run.</p> <p>The Administration and SFC responded that –</p> <p>(a) it was the target to implement the proposed USM regime as soon as practicable and to shorten the transitional period, taking into account system and market readiness, etc.;</p> <p>(b) SFC was working on the relevant subsidiary legislation with a view to launching the public consultation in the second half of 2015; and</p> <p>(c) as investors would have choices for holding shares in certificated or uncertificated form and in different types of accounts, it was expected that fees pertaining to the USM regime would be driven by market forces to acceptable levels.</p>	
004325 – 005251	Chairman Mr Kenneth LEUNG FSRL SFC	<p>FSRL expressed concern that HKSCC would take up the arrangement of dividend payment for shares held in the Central Clearing and Settlement System regardless of whether the shares were held in the name of HKSCC Nominees Limited.</p> <p>Mr LEUNG enquired whether services relating to share registration and corporate actions under the proposed USM regime would be open to market competition so as to avoid monopoly by certain services providers.</p>	

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		<p>SFC explained that –</p> <ul style="list-style-type: none"> (a) during the initial stage of the dual system, HKSCC as the USM system operator would keep and maintain the members register (uncertificated shares) whereas share registrars would keep and maintain their respective members register (certificated shares); (b) in the long run when the securities market became fully uncertificated, HKSCC would keep and maintain the full register, and provide the updated register to share registrars for the latter to deal with the corporate actions; and (c) investors would be provided with the choice to receive dividend payments and other corporate action services through a share registrar if the shares were registered in the investors' own names or through a nominee (e.g. broker) if the shares were registered in the name of the nominee. 	
005252 – 005427	Chairman Mr Kenneth LEUNG Administration	<p>Mr LEUNG enquired about the timeframes for (a) transitioning from the dual system to a fully uncertificated securities market in Hong Kong, and (b) requiring all new companies seeking initial public offering in Hong Kong to issue shares in uncertificated form only.</p> <p>The Administration advised that it would take forward the USM regime in a progressive manner, having regard to experience in system operation, market readiness and a phased and orderly arrangement for Hong Kong companies to participate in the proposed USM regime.</p>	
005428 – 010400	Chairman Mr Kenneth LEUNG LRI FSRL SFC	<p>In response to LRI's concern about how the uncertificated shares of a company listed in Hong Kong and other places could be traded in overseas markets, FSRL explained that uncertificated shares could be transferred electronically to facilitate trading in foreign stock exchanges.</p> <p>SFC added that the trading/transfer of uncertificated shares of a company listed on</p>	

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		<p>different stock exchanges would be subject to requirements in the articles of association of the company concerned and home legislation of the stock exchange in question.</p> <p>In reply to Mr LEUNG, SFC advised that issues relating to stock levy would be considered in connection with the fee schedules of HKSCC under the proposed USM regime.</p>	
010401 – 010620	Chairman Mr SIN Chung-kai Mr Kenneth LEUNG	Members agreed to invite representatives of HKEx to attend the next meeting.	The Clerk
010621 – 011000	Chairman LRI Mr Kenneth LEUNG Mr SIN Chung-kai	<p>LRI considered that retaining the option for physical delivery of share in trading/transfer could be a competitive edge for Hong Kong's financial market as some investors might prefer to hold their shares in certificated form to protect their privacy and conceal their assets.</p> <p>Mr LEUNG pointed out that it was necessary for Hong Kong to meet the minimum international standards in respect of financial transparency including tax transparency.</p> <p>Mr SIN observed that moving towards a USM regime was an international trend. In his view, there were disadvantages associated with the existing paper-based securities market regime, such as problems arising from loss of the paper certificates.</p>	
011001 – 011202	Chairman FSRL Administration Clerk	In response to FSRL's enquiry as to why the written submission provided by HKEx (LC Paper No. CB(1)2035/13-14(08)) was restricted to Bills Committee members only, the Clerk explained that the arrangement was made upon HKEx's request and the relevant arrangement was in line with the established practice of the Legislative Council ("LegCo") in handling written submissions from deputations.	
011203 – 011512	Chairman FSRL	<p>Disclosure of interest by the Chairman</p> <p>The Chairman conveyed the following views and concerns –</p> <p>(a) market intermediaries including securities firms in general supported early</p>	

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		<p>implementation of the proposed USM regime and opined that the transitional period to a fully USM regime should not be unduly long;</p> <p>(b) the proposed USM regime should be expanded to cover shares of non-Hong Kong companies as early as possible;</p> <p>(c) all new companies seeking initial public offering in Hong Kong, irrespective of their places of incorporation, should be required to issue shares in uncertificated form; and</p> <p>(d) the Government should consider subsidizing securities firms in participating in the proposed USM regime so as to minimize the cost burden on the industry.</p> <p>FSRL remarked that application of the proposed regime to shares of non-Hong Kong companies would require necessary approval or legislative amendments by the home jurisdictions concerned.</p>	
011513 – 012313	Chairman Administration SFC	Briefing by the Administration and SFC on their written responses to the issues raised at the meeting held on 18 July 2014 (LC Paper No. CB(1)2035/13-14(10))	
012314 – 012535	Chairman Mr SIN Chung-kai Administration	In reply to Mr SIN about the timetable for implementing the proposed USM regime, the Administration reiterated that public consultation on the proposals of relevant subsidiary legislation would be conducted in the second half of 2015. Depending on the outcome of consultation and the time required to fine-tune the proposals, the subsidiary legislation would be introduced into LegCo as soon as possible. In parallel, the Working Group would continue to discuss the operational details and take forward system enhancement (requiring about 18 months) and testing. Subject to system and market readiness, the proposed USM regime was expected to be implemented in mid 2017.	
012536 – 012607	Chairman Mr Kenneth LEUNG	Date of next meeting	