

立法會
Legislative Council

LC Paper No. CB(1)643/14-15
(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 fifth meeting on
Thursday, 22 January 2015, at 8:30 am
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 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

Ms Frances HUI
Senior Assistant Law Draftsman
Department of Justice

Mr Manuel NG
Senior Government Counsel
Department of Justice

Mr HONG Wai-kuen
Acting Chief Assessor (Stamp Office)
Inland Revenue Department

Mr Benjamin CHAN
Acting Senior Superintendent of Stamp Office (General)
Inland Revenue Department

Attendance by invitation : Mr Rico LEUNG
Senior Director (Supervision of Markets)
Securities and Futures Commission

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

Ms Mary Therese AHERN
Consultant
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

I Meeting with the Administration

Clause-by-clause examination of the Bill

(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))

Matters arising from previous meeting

(LC Paper No. CB(1)324/14-15(02) — List of follow-up actions arising from the discussion at the meeting on 17 November 2014

LC Paper No. CB(1)462/14-15(01) — Administration's written response to the issues arising from the meeting held on 17 November 2014

LC Paper No. CB(1)462/14-15(02) — List of follow-up actions arising from the discussion at the meeting on 15 December 2014)

Committee Stage amendments proposed by the Administration

(LC Paper No. CB(1)462/14-15(03) — Administration's proposed Committee Stage amendments)

Other relevant papers

(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

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 written 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

LC Paper No. CB(1)220/14-15(02) — Administration's written response to the letter from Legal Service Division of the Legislative Council Secretariat on the Bill

LC Paper No. CB(1)324/14-15(01) — Written responses from the Administration and the Securities and Futures Commission to comments given by deputations to the Bills Committee)

Discussion

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

Follow-up action to be taken by the Administration

2. In the light of comment of the Legal Adviser to the Bills Committee, the Administration was requested to review the drafting of the Chinese text of the new section 5AA(1)(b) of the Stamp Duty Ordinance (Cap. 117) relating to application of the new stamping method to contract notes for sale/purchase of Hong Kong stock, with a view to facilitating understanding of the provision by the general public.

(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(1)492/14-15(02) on 28 January 2015.)

II Any other business

Legislative timetable

3. The Chairman said that the Bills Committee had completed scrutiny of the Bill. The Bills Committee supported the Administration's proposal to resume the Second Reading debate on the Bill at the Council meeting of 18 March 2015. The deadline for giving notice of amendment(s) to the Bill would be 9 March 2015. The Chairman would report the Bills Committee's deliberations to the House Committee on 27 February 2015.

4. There being no other business, the meeting ended at 9:09 am.

Council Business Division 1
Legislative Council Secretariat
13 March 2015

**Proceedings of the Bills Committee on Securities and Futures and
Companies Legislation (Uncertificated Securities Market Amendment) Bill 2014
Fifth meeting on Thursday, 22 January 2015, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

| Time Marker | Speaker | Subject(s) | Action Required |
|---|---|---|--|
| 000414 – 000623 | Chairman | Introductory remark | |
| Clause-by-clause examination of the Bill | | | |
| 000624 – 001400 | Chairman Administration Assistant Legal Adviser ("ALA") Mr CHAN Kam-lam | <p>Part 4 – Related Amendments</p> <p>Division 2—Amendments to Stamp Duty Ordinance (Cap. 117)</p> <p><u>Clause 52 - Section 2 amended (interpretation)</u></p> <p><u>Clause 53 - Section 4 amended (charging of, liability for, and recovery of stamp duty)</u></p> <p><u>Clause 54 - Sections 5AA and 5AAB added</u></p> <p><i>5AA. Additional provision on methods of stamping— sale or purchase of Hong Kong stock</i></p> <p>ALA suggested the Administration to review the Chinese text of the new section 5AA(1)(b) to rephrase the sentence "第 5AAB(2)(b)條所載的條件，就該單據獲符合，本條即適用於該單據" to "該單據符合第 5AAB(2)(b)條所載的條件，本條即適用於該單據".</p> <p>Mr CHAN considered that ALA's suggestion would facilitate better understanding of the provision by the general public.</p> <p>The Administration explained that as far as the contract note was concerned, each of the conditions referred to in the new section 5AAB(2)(b) was only to be satisfied "in respect of it" as described in the English text. The Chinese phrase "就該單據獲符合" was considered appropriate to convey the meaning in this context.</p> <p>The Administration agreed to review the drafting of the Chinese text of the new section 5AA(1)(b).</p> | The Administration to take action as required in paragraph 2 of the minutes. |

| Time Marker | Speaker | Subject(s) | Action Required |
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| 001401 – 002003 | Chairman Administration | <p><u>Clause 54 - Sections 5AA and 5AAB added</u></p> <p><i>5AAB. Approval of arrangement for purposes of section 5AA</i></p> <p><u>Clause 55 - Section 19 amended (contract notes, etc. in respect of sale and purchase of Hong Kong stock)</u></p> <p><u>Clause 56 - Section 58A amended (representations may be made to Collector before certain penalties are imposed)</u></p> <p><u>Clause 57 - Section 58B amended (remission of certain penalties)</u></p> <p><u>Clause 58 - First Schedule amended</u></p> | |
| 002004 – 002409 | Chairman Administration | <p>Briefing by the Administration on its written response to issues arising from the meeting held on 17 November 2014 [LC Paper No. CB(1)462/14-15(01)]</p> | |
| 002410 – 002935 | Chairman Administration ALA | <p>Briefing by the Administration on proposed Committee Stage amendments ("CSA") to the Bill [LC Paper No. CB(1)462/14-15(03)]</p> <p><u>CSA to Clause 1</u> On the proposed CSA to add new Clause 1(2) and (3), ALA suggested simplifying the drafting such as stipulating directly that <u>Clause 17(7)</u> would come into operation on the day on which the Bill was published in the Gazette as Ordinance ("the Amendment Ordinance").</p> <p>The Administration advised that apart from Clause 17(7), certain other provisions (e.g. Clause 1) would also take effect from the date of gazettal of the Amendment Ordinance. To ensure that all those other provisions could be covered by Clause 1(2), Clause 1(2) was therefore drafted in a more general way. The Administration further advised that Clause 1(3) was intended to cover those provisions that would come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury.</p> | |
| 002936 – 003800 | Chairman Administration | <u>CSA to Clause 12</u> | |

| Time Marker | Speaker | Subject(s) | Action Required |
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| | Mr Dennis KWOK ALA | <p>Mr KWOK enquired about the specific powers of the Court that the new section 101AAO(2A)(a) would provide for.</p> <p>The Administration explained that –</p> <p>(a) ALA had raised concern that the Notes proposed under sections 152 and 633 of the Companies Ordinance (Cap. 622) (i.e. clauses 28 and 42) referred readers to the rules to be made by the Securities and Futures Commission ("SFC") under the new section 101AAO of the Securities and Futures Ordinance (Cap. 571) ("SFO") for certain powers of the Court. However, it was noted that the new section 101AAO did not specifically authorize SFC to make rules relating to such powers of the Court;</p> <p>(b) the proposed CSA would address ALA's concern by making explicit that rules made by SFC under the new section 101AAO of SFO might provide for the making of applications to the Court in respect of allotments, transfers and transmissions, and the Court's powers on receiving such applications. For further clarity, the new section 101AAO(2A)(b) sought to make explicit that rules made under the new section 101AAO might cover matters that related or were incidental to the matters described in section 101AAO(1), (2) or (2A)(a); and</p> <p>(c) the Administration had consulted the Judiciary on matters relating to the Court's powers before finalizing the Bill for submission to the Legislative Council.</p> <p><u>CSA to add a new Division 4A to Part 4 of the Bill</u></p> | |
| 003801 – 003919 | Chairman Administration | Legislative timetable | |
| 003920 – 003956 | Chairman Mr Jeffrey LAM | <p>Concluding remarks</p> <p>Mr LAM commended the Chairman for conducting meetings in an efficient manner, the efforts of the Administration and SFC in</p> | |

| Time Marker | Speaker | Subject(s) | Action Required |
|------------------------|----------------|--|----------------------------|
| | | responding to members' enquiries, and the support of the LegCo Secretariat on the work of the Bills Committee. | |

Council Business Division 1
Legislative Council Secretariat
13 March 2015