

立法會
Legislative Council

LC Paper No. CB(1)1153/14-15
(These minutes have been seen
by the Administration)

Ref : CB1/SS/11/14

**Subcommittee on Three Pieces of Subsidiary Legislation
Relating to Over-the-counter Derivative Transactions**

**Minutes of second meeting held on
Monday, 22 June 2015, at 4:35 pm
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon SIN Chung-kai, SBS, JP (Chairman)
Hon NG Leung-sing, SBS, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP

**Public Officers
attending** : Agenda item I

Financial Services and the Treasury Bureau

Ms Ada CHAN
Principal Assistant Secretary
(Financial Services) 2

Hong Kong Monetary Authority

Mr Daryl HO
Head (Financial Stability Surveillance)

Ms Polly LEE
Senior Manager
(Financial Stability Surveillance)4

Mr Andy CHEUNG
Senior Manager (Banking Policy)A3

Securities and Futures Commission

Ms Daphne DOO
Senior Director (Supervision of Markets)

Ms Thrity MUKADAM
Director (Supervision of Markets)

Ms Eunice CHENG
Senior Manager (Supervision of Markets)

Ms Sandra KING
Senior Legal Consultant
(Legal Services Division)

Ms Amy LAM
Counsel (Legal Services Division)

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)5

Staff in attendance : Miss Carrie WONG
Assistant Legal Adviser 4

Mr Daniel SIN
Senior Council Secretary (1)7

Ms Michelle NIEN
Legislative Assistant (1)5

Action

I Meeting with deputations and the Administration

- (LC Paper No. CB(1)1013/14-15(01) —List of follow-up actions arising from the discussion at the meeting on 12 June 2015
- LC Paper No. CB(1)1013/14-15(02) —Administration's response to issues raised at the meeting on 12 June 2015)

Submissions from organizations/individuals not attending the meeting

(LC Paper No. CB(1)1023/14-15(01) —Submission from The Hong Kong Association of Banks (*tabled at the meeting and subsequently issued via email on 22 June 2015*) (English version only))

The Chairman said that the meeting was originally scheduled to receive views from deputations on the three pieces of subsidiary legislation under scrutiny by the Subcommittee, namely, the Securities and Futures (Amendment) Ordinance 2014 (Commencement) Notice 2015, the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules, and the Securities and Futures (Stock Markets, Futures Markets and Clearing Houses) Notice. As no deputation attended the meeting, the Chairman said that the Subcommittee would proceed to deal with other outstanding matters.

2. The Chairman informed members that the information provided by the Administration in response to members' request at the meeting on 12 June 2015 had been issued to members vide LC Paper No. CB(1)1013/14-15(02).

3. The Subcommittee deliberated (index of proceedings in the **Appendix**).

4. The Chairman concluded that the Subcommittee had completed scrutiny of the three pieces of subsidiary legislation and the Subcommittee would not propose any amendment to them. Members noted that the scrutiny period for the three pieces of subsidiary legislation had been extended to the Council meeting of 8 July 2015 and the deadline of giving notice of amendments was 30 June 2015. Members further noted that the Chairman would make a verbal report on the deliberations of the Subcommittee at the House Committee meeting on 26 June 2015.

(*Post-meeting note: The written report of the Subcommittee was submitted to the House Committee vide LC Paper No. CB(1)1032/14-15 on 25 June 2015.*)

Follow-up action to be taken by the Administration

5. The Subcommittee requested the Administration to provide a written response to the comments made by the Hong Kong Association of Banks in its submission.

II Any other business

6. There being no other business, the meeting ended at 4:55 pm.

Council Business Division 1
Legislative Council Secretariat
27 July 2015

**Proceedings of second meeting of the
Subcommittee on Three Pieces of Subsidiary Legislation Relating to
Over-the-counter Derivative Transactions
on Monday, 22 June 2015, at 4:35 pm
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Meeting with deputations and the Administration			
000730 – 000916	Chairman	Opening remarks	
000917 – 002009	Chairman Mr NG Leung-sing Administration	<p>The Administration gave the following responses to the written submission by the Hong Kong Association of Banks ("HKAB") on the three pieces of subsidiary legislation relating to over-the-counter ("OTC") derivative transactions –</p> <ul style="list-style-type: none"> (a) the market would be consulted at a later time on proposals regarding the reporting of valuation transaction information; (b) the HKAB's concern regarding masking relief had been addressed in the frequently asked questions jointly issued by the Hong Kong Monetary Authority and the Securities and Futures Commission; (c) the China Foreign Exchange Trading System and the Shanghai Clearing House would not be included in the list of prescribed stock/futures markets and clearing houses for the purpose of section 1B(2)(c) of Part 1 of Schedule 1 to the Securities and Futures Ordinance, (Cap. 571) because these entities were involved in OTC derivatives trading activities that were to be regulated under the three pieces of subsidiary legislation; and (d) reporting of unique transaction identifiers ("UTIs") was required as it was consistent with international practice. The information was critical for purposes of regulatory market analysis. <p>As suggested by Mr NG Leung-sing, the Chairman requested the Administration to provide a written response to the comments</p>	<p>The Administration to follow up as per</p>

Time marker	Speaker	Subject(s)	Action required
		from the HKAB along the lines presented to the Subcommittee.	paragraph 5 of the minutes.
002010 – 002515	Chairman Administration	<p>The Administration briefed members on the Administration and regulators' response to members' queries made at the meeting on 12 June 2015.</p> <p>In response to the Chairman's query, the Administration advised that –</p> <ul style="list-style-type: none"> (a) the majority of authorized institutions and licensed corporations who engaged in OTC derivative transactions involving interest rate swaps or non-deliverable forwards would not be able to enjoy the "exempt person" relief under the Securities and Futures (OTC Derivative Transactions – Reporting and Record Keeping Obligations) Rules; and (b) the US\$30 million figure adopted as the ceiling of the sum of the notional amount of all outstanding OTC derivative transactions within a product class below which a prescribed person would enjoy the "exempt person" relief and would be exempted from mandatory reporting of OTC derivative transactions was derived on the basis that small or inactive institutions should be regarded as those who had conducted fewer than five OTC derivative transactions, with each having a notional value of no more than US\$6 million. 	
002516 – 002608	Chairman	Legislative timetable and way forward	