

立法會
Legislative Council

LC Paper No. CB(1)1224/17-18
(These minutes have been seen
by the Administration)

Ref : CB1/SS/9/17/1

**Subcommittee on Banking (Disclosure) (Amendment) Rules 2018 and
Banking (Specification of Multilateral Development Bank)
(Amendment) Notice 2018**

**Minutes of the meeting
held on Monday, 21 May 2018, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon CHAN Chun-ying (Chairman)
Hon WONG Ting-kwong, GBS, JP
Hon YIU Si-wing, BBS
Hon Kenneth LEUNG
Dr Hon KWOK Ka-ki
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon Jimmy NG Wing-ka, JP

Member attending : Hon Martin LIAO Cheung-kong, SBS, JP

Member absent : Hon James TO Kun-sun

**Public Officers
attending** : **For item II**

Financial Services and the Treasury Bureau

Ms Eureka CHEUNG
Principal Assistant Secretary (Financial Services)5

Mr Timothy CHAU
Assistant Secretary (Financial Services)(5)2

Hong Kong Monetary Authority

Mr Daryl HO
Executive Director (Banking Policy)

Mr Richard CHU
Head (Banking Policy)B

Ms Theresa KWAN
Senior Manager (Banking Policy)B2

Department of Justice

Ms Angie LI
Senior Government Counsel

Mr Vincent FUNG
Government Counsel

Mr Alex LAI
Government Counsel

Clerk in Attendance : Ms Angel SHEK
Chief Council Secretary (1)1

Staff in attendance : Miss Rachel DAI
Assistant Legal Adviser 2

Miss Judy YEE
Council Secretary (1)1

Miss Mandy POON
Legislative Assistant (1)1

Action

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.

Action

2. Mr WONG Ting-kwong invited nominations for the chairmanship of the Subcommittee. Mr Christopher CHEUNG nominated Mr CHAN Chun-ying, and the nomination was seconded by Mr Jimmy NG. Mr CHAN accepted the nomination.

3. There being no other nominations, Mr CHAN Chun-ying was declared Chairman of the Subcommittee. Mr CHAN then took the chair.

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

II. Meeting with the Administration

(L.N. 77 of 2018 — Banking (Disclosure) (Amendment) Rules 2018

L.N. 78 of 2018 — Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2018

File Ref: B&M/2/1/63C — Legislative Council Brief

LC Paper No. LS57/17-18 — Legal Service Division Report

LC Paper No. CB(1)976/17-18(01) — Marked-up copy of relevant provisions to be amended by the subsidiary legislation prepared by the Legal Service Division (Restricted to members))

Discussion

5. The Subcommittee deliberated and completed examination of the provisions of the Banking (Disclosure) (Amendment) Rules 2018 ("BDAR 2018") and Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2018 ("the Amendment Notice") (index of proceedings attached at the **Annex**).

6. Members agreed that there was no need to invite views from the public on BDAR 2018 and the Amendment Notice.

Action

III. Any other business

Legislative timetable

7. The Chairman concluded that the Subcommittee had completed scrutiny of BDAR 2018 and the Amendment Notice. Members noted that the scrutiny period of BDAR 2018 and the Amendment Notice would expire at the Council meeting of 6 June 2018. The Chairman would report the deliberations of the Subcommittee to the House Committee on 25 May 2018. Members further noted that the deadline for giving notice of amendments to the two pieces of subsidiary legislation would be 30 May 2018.

8. There being no other business, the meeting ended at 11:38 am.

Council Business Division 1
Legislative Council Secretariat
4 July 2018

**Subcommittee on Banking (Disclosure) (Amendment) Rules 2018 and
Banking (Specification of Multilateral Development Bank)
(Amendment) Notice 2018**

**Proceedings of the meeting
on Monday, 21 May 2018, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I — Election of Chairman</i>			
000427 – 000610	Mr WONG Ting-kwong Mr Christopher CHEUNG Mr Jimmy NG Mr CHAN Chun-ying	Election of Chairman	
<i>Agenda Item II — Meeting with the Administration</i>			
000611 – 000728	Chairman	Opening remarks	
000729 – 001019	Chairman Administration	Briefing by the Administration on the Banking (Disclosure) (Amendment) Rules 2018 ("BDAR 2018") and Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2018 ("the Amendment Notice"). [Legislative Council Brief (File Ref: B&M/2/1/63C)]	
001020 – 002704	Chairman Dr KWOK Ka-ki Administration	Dr KWOK enquired about: (a) the reasons for removing the existing requirement in the Banking (Disclosure) Rules (Cap. 155M) ("BDR") that an authorized institution ("AI") should issue a press release concurrently with the publication of a disclosure statement, which in his view might deprive the public of a convenient means of access to the information disclosed; (b) in view of the relatively short history of operation of the Asian Infrastructure Investment Bank ("AIIB"), whether the preferential treatment accorded to the bank in certain areas under the Banking Ordinance (Cap. 155) ("BO") would increase the credit risks on those AIs which were counterparties to AIIB, especially if any individuals of AIIB happened to engage in fraudulent, corruptive or	

Time marker	Speaker	Subject(s)	Action required
		<p>other prohibited practices by mis-using the funds/loans for AIIB-financed projects; and</p> <p>(c) whether any limitations were set on an AI's exposure to the financial instruments issued by AIIB or other multilateral development banks ("MDBs").</p> <p>The Administration replied that:</p> <p>(a) having regard to web-based disclosures nowadays, the voluminous nature of the disclosure statements and their target readers/users (who were mainly financial professionals and analysts), as well as changes in media practices and coverage, the Administration considered the existing requirement for an AI to issue a press release concurrently with the publication of a disclosure statement obsolete, and that web-based disclosures would suffice to serve the intended purpose of ensuring transparency of the disclosure for public inspection. The proposed new disclosure requirements had taken into account industry and international disclosure practices;</p> <p>(b) as with other banks/bodies currently specified in the Banking (Specification of Multilateral Development Bank) Notice (Cap. 155N) ("the Notice"), the specification of AIIB as an MDB for the purposes of BO was made following the promulgation by the Basel Committee on Bank Supervision ("BCBS") of AIIB as an MDB eligible for preferential treatment under the capital regime;</p> <p>(c) AIIB's eligibility had been critically assessed by BCBS according to a set of criteria in its framework of capital measurement and capital standards. Besides, BCBS would review the eligibility of the promulgated MDBs including AIIB from time to time. If any bank/body was removed from BCBS' list of MDBs because it no longer met the relevant requirements to be eligible for the preferential treatment, the Administration would introduce amendments to the Notice accordingly; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(d) the preferential treatment only applied to AIs' exposures to AIIB in certain areas under BO, which did not cover the acts of any individuals of AIIB. Moreover, the rules governing exposure limit by AIs incorporated in Hong Kong (currently set out in section 81 of BO) would soon be amended to generally restrict the financial exposure of an AI to any counterparty (including AIIB) that was not a sovereign to an amount not exceeding 25% of the AI's Tier I capital. This would help manage and minimize AIs' risk exposures.</p>	
<p>002705 – 003558</p>	<p>Chairman Mr Kenneth LEUNG Administration</p>	<p>Mr LEUNG enquired about:</p> <p>(a) the reasons for the substantial revisions of existing provisions of BDR under BDAR 2018; and</p> <p>(b) whether the information required to be disclosed by an AI under BDR should be verified by the AI's external auditor before disclosure.</p> <p>The Administration advised that:</p> <p>(a) the amendments made to BDR were meant to bring into force certain new requirements mandating disclosure of an AI's key prudential ratios and prudent valuation adjustments, and to update the format and frequency of the existing disclosures to accord with the <i>Pillar 3 disclosure requirements – consolidated and enhanced framework</i> issued by BCBS in March 2017 ("March 2017 Standard");</p> <p>(b) in line with the established practice for codifying Basel standards on regulatory disclosure in the local legislation (i.e. BDR), standard disclosure templates (or tables if applicable) would be specified under sections 6(1)(ab) or 88(1)(b) of BDR by the Monetary Authority;</p> <p>(c) while it was not a requirement that the information to be disclosed by an AI should be verified by the AI's external auditor before disclosure, and as stipulated in section 8 of BDR, the board of directors and the senior management of an AI should ensure, among</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>other things, that the information which the institution was required to disclose pursuant to BDR was, before being so disclosed, scrutinized and subjected to an internal review to ensure that the information was not false or misleading in any material respect; and</p> <p>(d) if an AI failed to comply with any requirement applicable to it contained in the rules made under 60A(1) of BO (disclosure to the general public of information relating to the state of affairs of an AI under BDR), every director, every chief executive and every manager of the AI would have committed an offence and were liable to a fine.</p>	
<p>003559 – 004159</p>	<p>Chairman Mr KWOK Ka-ki Administration</p>	<p>Dr KWOK enquired about:</p> <p>(a) whether it was mandatory for the jurisdictions of all BCBS members to specify AIIB as an MDB in their respective local legislation; and</p> <p>(b) the reasons for not incorporating into BDAR 2018 other disclosure requirements in the March 2017 Standard.</p> <p>The Administration advised that:</p> <p>(a) the jurisdictions of all BCBS members including Hong Kong were expected to specify AIIB as an MDB in their respective local regulatory regime; and</p> <p>(b) there were two requirements of the March 2017 Standard which were not dealt with by BDAR 2018: (i) disclosures concerning the constituents of an AI's resources eligible to meet its minimum total loss-absorbing capacity requirement for resolution purposes, which needed to tally with the terminology and scope of application of the proposed rules currently being developed by the Hong Kong Monetary Authority under the Financial Institutions (Resolution) Ordinance (Cap. 628); and (ii) disclosures associated with the revised market risk framework, the international implementation timeline of which had been postponed by BCBS to 2022, and BCBS had yet to promulgate related guidelines.</p>	

Time marker	Speaker	Subject(s)	Action required
<p><i>Examination of the provisions of the Amendment Notice (L.N. 78 of 2018)</i> [Marked-up copy of relevant provisions to be amended by the subsidiary legislation prepared by the Legal Service Division (LC Paper No. CB(1)976/17-18(01))]</p>			
004200 – 004256	Chairman Administration	<p><u>Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2018 (L.N. 78 of 2018)</u></p> <p><i>1 – Commencement</i></p> <p><i>2 – Banking (Specification of Multilateral Development Bank) Notice amended</i></p> <p><i>3 – Section 2 amended (specification of multilateral development bank)</i></p> <p>Members raised no queries.</p>	
<p><i>Examination of the provisions of BDAR 2018 (L.N. 77 of 2018)</i> [Marked-up copy of relevant provisions to be amended by the subsidiary legislation prepared by the Legal Service Division (LC Paper No. CB(1)976/17-18(01))]</p>			
004257 – 005600	Chairman Mr Kenneth LEUNG Assistant Legal Adviser ("ALA") Administration	<p><u>Banking (Disclosure) (Amendment) Rules 2018 (L.N. 77 of 2018)</u></p> <p><i>1 – Commencement</i></p> <p><i>2 – Banking (Disclosure) Rules amended</i></p> <p><i>3 – Section 2 amended (interpretation)</i></p> <p><i>4 – Section 3 amended (application)</i></p> <p><i>5 – Section 6 amended (medium, location and timing of disclosure and issue of press release)</i></p> <p><i>6 – Section 11 amended (consolidated group level disclosures)</i></p> <p><i>7 – Section 12 amended (basis of disclosure)</i></p> <p><i>8 – Section 14 amended (frequency)</i></p> <p><i>9 – Section 15 amended (group-wide disclosures made by parent bank of authorized institution)</i></p> <p><i>10 – Part 2A, Division 2 heading amended (overview of risk management and risk-weighted amount)</i></p>	

Time marker	Speaker	Subject(s)	Action required
		<p><i>11 – Section 16AB added</i></p> <p><i>12 – Section 16B amended (overview of risk management—annual disclosures)</i></p> <p><i>13 – Section 16C amended (overview of risk-weighted amount—quarterly disclosures)</i></p> <p><i>14 – Section 16D amended (differences between accounting and regulatory scopes of consolidation and mapping of financial statement categories with regulatory risk categories—annual disclosures)</i></p> <p><i>15 – Section 16FA added</i></p> <p><i>16 – Part 2A, Divisions 3A to 3D added</i></p> <p><i>17 – Section 16ZDA added</i></p> <p><i>18 – Section 16ZF amended (securitization exposures in banking book—semi-annual disclosures)</i></p> <p><i>19 – Section 16ZG amended (securitization exposures in trading book—semi-annual disclosures)</i></p> <p><i>20 – Section 16ZH amended (securitization exposures in banking book and associated capital requirements, where authorized institution acts as originator—semi-annual disclosures)</i></p> <p><i>21 – Part 2A, Divisions 8 and 9 added</i></p> <p><i>22 – Part 2B repealed (additional quarterly disclosures to be made by authorized institutions incorporated in Hong Kong)</i></p> <p><i>23 – Sections repealed</i></p> <p><i>24 – Section 25 amended (general disclosures)</i></p> <p><i>25 – Section 26 amended (sector information)</i></p> <p><i>26 – Section 29 amended (currency risk)</i></p> <p><i>27 – Sections repealed</i></p> <p><i>28 – Section 52 amended (corporate governance)</i></p>	

Time marker	Speaker	Subject(s)	Action required
		<p>29 – Section 88 amended (medium and location of disclosure and issue of press release)</p> <p>30 – Section 90 amended (comparative information)</p> <p>31 – Section 91 amended (frequency)</p> <p>32 – Section 93 amended (income statement information)</p> <p>33 – Section 95 amended (provisions supplementary to sections 93 and 94)</p> <p>34 – Section 98 amended (general disclosures)</p> <p>35 – Section 102 amended (currency risk)</p> <p>36 – Section 103 amended (liquidity information disclosures: general)</p> <p>37 – Section 103A substituted</p> <p>38 – Section 103AB added</p> <p>39 – Section 103B amended (liquidity information disclosures: category 2 institution)</p> <p>40 – Section 103C added</p> <p>In reply to the Chairman and ALA, the Administration advised that:</p> <p>(a) the definitions of the terminologies used in BDAR 2018 basically followed those adopted by BCBS, except those local requirements that were applicable to Hong Kong only (e.g. requirements relating to the liquidity maintenance ratio of AIs); and</p> <p>(b) the meaning of "a section of the internet website" in section 3 of BDAR 2018 referred to the part of an AI's website which was dedicated for making disclosure of information under BDR and where the AI had established and maintained the archives of its disclosure statements for public inspection in accordance with the BDR requirements.</p>	

Time marker	Speaker	Subject(s)	Action required
		The Administration further advised that the new/updated disclosure templates/tables for implementation of BDAR 2018 had been issued to the banking industry in May 2018 for consultation, and the finalized version would be used by AIs for making disclosure of their individual capital and liquidity positions, etc. after commencement of BDAR 2018 on 30 June 2018.	
<i>Agenda Item III — Any other business</i>			
005601 – 005740	Chairman	legislative timetable	

Council Business Division 1
Legislative Council Secretariat
4 July 2018