

**Extract of minutes of special meeting of
the Panel on Financial Affairs on 13 June 2002**

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III Consumer protection in the banking sector

LC Paper No. CB(1)1942/01-02(01) - Paper provided by the Administration

LC Paper No. CB(1)1853/01-02 - Minutes of special meeting on 26 February 2002

LC Paper No. CB(1)1942/01-02(02) - List of issues raised at the meeting on 26 February 2002

LC Paper No. CB(1)1978/01-02(03) - Information paper provided by the Consumer Council

LC Paper No. CB(1)2009/01-02(01) - Complaint statistics on financial services provided by the Consumer Council

LC Paper No. CB(1)2009/01-02(02) - Speaking note provided by the Hong Kong Association of banks

LC Paper No. CB(1)2018/01-02(01) - Speaking note provided by the DTC Association

Other relevant papers

LC Paper Nos. CB(1)1543/01-02(01)&(02), CB(1)1113/01-02(02), CB(1)1114/01-02(01), CB(1)626/01-02(01) & (02), CB(1)344/01-02, and CB(1)1112/00-01(02)

25. The Chairman reminded members that the subject on "Consumer protection in the banking sector" was discussed at the special meeting held on 26 February 2002. He advised that the Panel would continue to discuss the issues raised at the previous meeting, in particular, the effectiveness of the revised Code of Banking Practice (the Code) in enhancing customer protection and adequacy of its enforcement mechanism, as well as the role of the Hong Kong Monetary Authority (HKMA) in protecting consumers in the banking sector.

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26. The Chairman welcomed representatives of the HKMA, Financial Services Bureau, Hong Kong Association of Banks (HKAB), DTC Association (DTC), and Consumer Council (CC) to the meeting. He then invited the representatives to present their views on the subject.

Discussion with members

Measures to improve complaints handling mechanism

27. A number of members expressed concern about the rising number of customer complaints in the banking sector. They noted from the Administration's information paper that the HKMA had received a total of 479 customer complaints against authorized institutions (AIs) in the first quarter of 2002. The number was already more than half of the 880 complaints received in 2001. Moreover, CC had received a total of 468 complaints relating to financial services in the first five months of 2002.

28. Mr Albert HO said that the situation warrant due attention of the industry and the Administration. He considered that the rapid growth in number of customer complaints might have partly attributed to the keen competition in the market. Mr HO said that as the banking industry thrived on integrity, professionalism and adherence to high standards of business practices, the Democratic Party urged that the banking industry should step up efforts to protect customers' interest by exercising more self-discipline. He suggested that the HKMA should enhance monitoring over the self-regulatory framework of the banking industry, and involve the public, such as consumer interest groups, in the process. Notwithstanding that it was the primary role of the HKMA to be the prudential regulator for AIs, as the role of other financial regulators, such as the Securities and Futures Commission (SFC), had evolved to cover both prudential and conduct regulation of their regulatees, Mr HO considered it necessary for the HKMA to review its role for consumer protection in the light of development in the banking industry. He further opined that while there was no imminent need to expand the statutory powers of the HKMA to take on the role for protecting bank customers, the HKMA should undertake more studies and consult the public on related issues.

29. Mr SIN Chung-kai concurred that the public expected the banking industry to enhance the existing complaints handling system. Miss Emily LAU also shared Mr Albert HO's views that the banking industry should step up self-regulation in enhancing protection for consumers. She opined that the industry should put in place a proper complaints handling system. In order to increase transparency and to instil public confidence on the system, Miss LAU suggested that AIs should report to the industry associations on the number of complaints they had received and the ways they had handled them, and such information should be published for public information at regular intervals. Miss LAU

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believed that a transparent complaints handling system would strengthen banks' awareness on the need to provide quality service to customers and hence would help avoid complaints from arising in the first place.

HKMA

30. The Executive Director (Banking Development) HKMA (ED/HKMA) advised that the HKMA's role in consumer protection complemented the banking industry's self-regulation. To foster greater self-regulation in the industry, the HKMA would continue to work closely with the industry associations to enhance AI's compliance with the Code and to strengthen the mechanism for handling customer complaints. He also noted Mr Albert HO's suggestion to increase public involvement in monitoring the self-regulation of the banking industry in enhancing consumer protection and said that the HKMA would study the proposal further.

31. The Principle Assistant Secretary for Financial Services (PAS/FS) shared that self-regulation by the banking industry was important in enhancing protection for consumers. She further advised that apart from the Code which stipulated the standards of business conduct for compliance of AIs, there were provisions under the Banking Ordinance (Cap. 155) (BO) to protect consumer interests. For instance, the Banking (Amendment) Ordinance 2002 had provided the HKMA with more powers in regulating the conduct of AIs in carrying out their securities business. Moreover, under the new Securities and Futures Ordinance, when the HKMA identified breaches from AIs to the provisions, it could refer the cases for follow-up by the SFC which could impose legal sanctions on AIs, including fines, reprimands and revocation of registration. As a result, the HKMA would be more involved in conduct regulation of AIs. The Administration would consider the desirability of expanding HKMA's powers to regulate business conduct of other activities engaged by AIs in order to enhance consumer protection in the light of experience in implementing the two Ordinances.

32. Mr LO Chun-hing, Acting Chairman of HKAB reiterated that competition was the main driving force for banks to improve their customer services. In the face of increasing market competition, banks would lose their business if they did not maintain quality customer service. He stressed that as banks thrived on their credibility, it was in their interest to take up every complaint and enquiry seriously and expeditiously. However, Mr LO expressed reservation on Miss Emily LAU's suggestion for banks to disclose the number of customer complaints they had received and the details about how they had been dealt with. He stressed that as banks received many "enquiries" and "complaints" on a daily basis which a lot of them might not be substantiated, such information might be misleading to the public. Mr Peter WONG, Vice Chairman, Bank Representative, HKAB, remarked that the fact that the majority of complaints received by banks had been satisfactorily dealt with by respective banks had reflected that banks took their customer complaints seriously and that the interest of customers were adequately protected. However, requiring banks

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to publish information on the number of customer complaints might be unfair to large banks as they had a large customer base and would naturally receive a larger number of complaints.

33. Mr Cliff FORSTER, Chariman of DTC said that DTC did not have the power to require its members to provide the association with information on their complaints. He stressed that the existing complaints handling arrangements were effective. However, DTC had no objection to providing the HKMA with more formal powers to deal with customers complaints if such a need was established. It would be appropriate to empower the HKMA with suitable discipline power, such as to "name and shame" AIs which had committed misconduct in their business.

34. Miss Emily LAU noted that according to a survey on customer complaints conducted by HKAB in early 2002, only 5.6% of the complaints received by AIs were regarded as "valid complaints", where as the rest were classified as "enquiries". She also noticed that 46.5% of these "enquiries" were eventually resolved by respective AIs providing compensations to the concerned customers, but were regarded by the AIs as "enquiries" and not "valid complaints". Moreover, Miss LAU also noted that CC had compiled statistics on customer complaints based on its own definition. As such, Miss LAU asked whether the HKMA had a definition on "customer complaint" and requested it to provide a breakdown in respect of the number of "valid complaints" and "enquiries" it received in 2001 and in the first quarter of 2002. She also enquired about the number of these complaints which had been successfully resolved.

35. ED/HKMA clarified that the nature of complaints received by the HKMA and HKAB was different. In general, AIs were able to resolve complaints they had received. But the complaints received by the HKMA covered those which could not be resolved by AIs and so the concerned complainants usually felt more aggrieved. As such, it might be difficult to develop an objective definition on "complaint" which would be acceptable to both the HKMA and HKAB. ED/HKMA stressed that the HKMA had an interest in ensuring that AIs had put in place a fair, transparent and efficient mechanism to handle customer complaints. On the 880 complaint cases received by the HKMA in 2001, more than 90% had been satisfactorily resolved by respective AIs after referral by the HKMA. At present, only 19 complaint cases remained unresolved. The reasons involved included pending outstanding litigation, further investigation and mediation. As regards the complaints received in the first quarter of 2002, the HKMA had yet to analyze the details.

36. As to the definition on "complaint", Mr LO Chun-hing opined that a "valid complaint" should be substantiated by facts that a bank had either breached the terms and conditions of the service agreement it had entered with customers, or statutory provisions, or rules or guidelines on business practices,

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e.g. the Code.

37. Mrs CHAN WONG Shui, Chief Executive of CC said that CC had no information on whether its complainants had also raised their complaints with the HKMA. But CC had not referred its complaints to the HKMA. Hence, duplication on complaints between those received by CC and the HKMA was unlikely. As regards the definitions on "complaint" and "enquiry", CC had clearly distinguished the two when compiling the complaint statistics. A "complaint" would have indicated that a complainant was not satisfied with the services or market practices of a bank. While CC noted that most of the complaints it had referred to respective banks for follow-up had been satisfactorily resolved by the banks concerned, Mrs CHAN pointed out that certain types of complaint constantly reappeared. An example was the extremely high surcharges imposed by banks on credit card holders for recovery of outstanding debts related to their credit cards. CC had provided its views on ways to enhance protection for banking customers in previous submission to the Panel and would continue to work with the HKMA closely on improving the current complaints handling arrangements.

38. Noting that over 50% of the complaints against AIs received by the HKMA in the first quarter of 2002 were related to their debt collection practices, Mr CHAN Kam-lam urged that the HKMA should take action to address this problem. He asked whether the HKMA would consider releasing the names of those AIs which had received a large number of customer complaints. In this connection, Mr CHAN recalled that there was a proposal to license the debt collection agencies for regulating their business. He then enquired about the progress in taking forward the proposal.

39. In reply, ED/HKMA reiterated that the HKMA was not empowered under the BO to disclose the name of banks for wrong conduct in their business. On the licensing proposal for debt collection agencies, he advised that the proposal was put forwarded by the Standing Committee on Company Law Reform (SCCLR) in 2002. The SCCLR had conducted public consultation on the proposal and would finalize the details in due course. The HKMA was supportive to the proposal. The Security Bureau would be responsible for preparing the legislative amendments relating to the proposal.

The proposal to set up a banking ombudsman

40. PAS/FS said that although the present arrangements for handling customer complaints were generally effective, there was room for further improvement in order to enhance protection for bank customers. Alternative arrangements available included strengthening self-regulation of banks and entrusting the industry associations with the responsibility of dealing with consumer complaints, giving the HKMA an explicit statutory role for consumer protection with necessary enforcement powers, and setting up an independent

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Banking Ombudsman. In considering these options, issues, such as transparency and credibility of the new system, and its cost-effectiveness should be taken into account. She added that while a banking ombudsman system had its merits, the issue about cost should be noted.

41. Mr LO Chung-hing said that HKAB would support the HKMA to take on a statutory role for consumer protection if there were full justifications. The banking industry had strong reservation against setting up a banking ombudsman system which might duplicate with the functions of the HKMA and would have substantial cost implications on the industry.

42. Miss Emily LAU agreed that the HKMA should consider the various alternatives carefully. She also remarked that the HKMA should continue to study the pros and cons related to the banking ombudsman system.

Provision of basic banking services in public housing estates

43. Mr NG Leung-sing referred to the concern raised at the previous meeting about the lack of basic banking facilities, such as bank branches and ATM machines, in old public housing estates. He noted the Housing Authority (HA)'s reply (LC Paper No CB (1) 1543/01-02 (02)) which stated that while HA would exercise flexibility in accepting rental offers for banks to provide basic banking services at premises in public housing estates, it was still a commercial decision on the part of banks on whether to take up banking premises in the estates. Mr NG considered that the reply had not helped address the concern and opined that the Panel might need to consider whether it should pursue the matter further with HA. In this connection, Mr NG asked whether the HKMA would consider providing incentives to banks with a view to encouraging them to provide basic banking services in areas where there was a serious shortage of services.

44. ED/HKMA replied that the provision of banking services was a commercial decision for banks having regard to many factors. It would be inappropriate for the HKMA to intervene in banks' decisions, nor could the HKMA provide incentives for banks in this regard.

Way forward

45. Miss Emily LAU reiterated her concern about the lack of definition for "complaint" and urged that the HKMA should examine the need of providing a definition to facilitate relevant parties in compiling customer complaint statistics and understanding the trend. Such a definition would also be useful in the consideration of adequacy of the present complaints handling mechanism. Miss LAU further suggested that the Panel should revisit various issues relating to the subject on "Consumer protection in the banking sector" after six months. Members agreed that the Panel should discuss the subject again in the light of

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development in the trend of customer complaints, the efforts by the HKMA and the industry in dealing with increasing complaints, the HKMA's review on its role regarding consumer protection amidst these developments. The Panel Clerk would keep the matter in view.

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