

**Bills Committee on
Financial Reporting Council Bill**

Sixteenth meeting on 12 May 2006

List of follow-up actions to be taken by the Administration

Clause 51 – Preservation of secrecy

1. On the Administration's advice that the Official Receiver has rarely been appointed to act as the liquidator or provisional liquidator of a company under the Companies Ordinance (Cap. 32) in recent years, a member requests the Administration to provide information on the number of cases in which the Official Receiver was so appointed in each of the past few years.

New clause 51A – Protection of informers

2. A member stresses the importance of protecting the identity of informers, and that a witness should be forbidden to disclose the name or address of an informer. In this connection, he is concerned that the expression "is not obliged to disclose" in the proposed new clause 51A(2) may carry the meaning that a witness may or may not disclose the name or address of an informer in the relevant proceedings. The member suggests that the expression "is not obliged to" be substituted with "shall not". The Administration is requested to consider the suggestion and respond in writing.

Clause 57 – Lien claimed on records or documents

3. A member is of the view that once a person who has the lien on a document has parted with the physical possession of the document, he would lose the lien. In this connection, if an auditor or accountant claims a lien on any document that has been produced to the Financial Reporting Council (FRC) under Part 3 or 4 of the Bill, and if for whatever reason the FRC subsequently returns the document to another party, such as the company under investigation, the auditor or accountant would lose the lien on the document, as the document is no longer in his possession. The member considers it very unfair to the auditor or accountant concerned, and yet clause 57(c) could not address this kind of situation. He

therefore urges that clause 57 be refined to guard against this situation. The Administration is requested to consider the member's view and respond in writing.

Clause 75 – Consequential amendments to the Prevention of Bribery Ordinance (PBO) (Cap. 201)

4. In response to the suggestion raised by the legal adviser to the Bills Committee at the meeting on 24 February 2006, the Administration undertakes to propose a Committee Stage amendment to clause 75 to add to Schedule 2 to the PBO the reference to “Financial Reporting Council”.

Council Business Division 1
Legislative Council Secretariat
15 May 2006