

FINANCIAL SERVICES BRANCH

FINANCIAL SERVICES AND

THE TREASURY BUREAU

GOVERNMENT OF THE HONG KONG

SPECIAL ADMINISTRATIVE REGION

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HONG KONG

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來函檔號 YOUR REF.:

[By fax 2293 5805]

9 June 2006

Mr. Brian Ho
Senior Director of Corporate Finance
Securities and Futures Commission
8/F, Chater House
8 Connaught Road Central
Hong Kong

[The same letter was
sent to HKICPA and
HKEEx.]

Dear Mr. Ho,

Financial Reporting Council Bill
Clause 17 (Financial Years and Estimates)

I am writing to seek the views of the Commission on a Committee Stage Amendment (CSA) to clause 17 of the Financial Reporting Council Bill ("the Bill") to be proposed by Hon. Sin Chung-kai.

Background

Clause 17 of the Bill (**Annex A**) relates to the approval of the financial year and estimates of the income and expenditure of the Financial Reporting Council ("FRC") by Secretary for Financial Services and the Treasury. Hon. Sin wrote to the Chairman of the Bills Committee on 6 June 2006 to request the Administration to include in clause 17 a requirement for the estimates of the income and expenditure of the FRC to be laid on the table of the Legislative Council ("LegCo").

With reference to a similar provision under section 13(3) of the Securities and Futures Ordinance (Cap. 571), Hon. Sin considers his proposed amendment necessary to enhance the legislative scrutiny of the operation of the FRC. His proposal is at **Annex B** for ease of reference.

The Administration's views

As already explained to the Bills Committee, the Administration does not agree with Hon. Sin's view. We consider that the current provisions in the Bill are suitable, taking into consideration the fact that no funding approved by LegCo is proposed for the FRC. We therefore have no intention to propose a CSA to state the requirement to cause the estimates of the FRC to be laid before the LegCo. A brief note on the Administration's position is at **Annex C**.

Views sought

At its meeting on 9 June 2006, the Bills Committee has invited the Administration to consult the three other funding parties on Hon. Sin's proposal and revert to the Bills Committee with the outcome of the consultation at its next meeting scheduled for 16 June 2006. In this connection, I should be grateful for the views of the Commission by **14 June 2006**.

Yours sincerely,



(Jackie Liu)

for Secretary for Financial Services and the Treasury

Encl.

Financial Reporting Council Bill

17. Financial years and estimates

(1) The Council may, with the prior approval of the Secretary, fix a period to be the financial year of the Council.

(2) As soon as practicable after the commencement of this section, the Council shall submit to the Secretary, for his approval, estimates of the income and expenditure of the Council for the first financial year of the Council.

(3) In each financial year of the Council, the Council shall, before a date to be fixed by the Secretary, submit to the Secretary, for his approval, estimates of the income and expenditure of the Council for the next financial year of the Council.

**20. Reports and statement to be laid before
Legislative Council**

(1) As soon as practicable after the end of each financial year of the Council, the Council shall submit to the Secretary -

(a) a report on the activities of the Council for that financial year;

(b) a copy of the statement of accounts prepared under section 18(2) for that financial year;

and

(c) a copy of the report made under section 19(1)
on the audit of that statement.

(2) The Secretary shall cause the reports and statement
received by him under subsection (1) to be laid on the table
of the Legislative Council.



民主黨立法會議員秘書處

Secretariat of Legislative Councillors of The Democratic Party

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立法會 CB(1)1655/05-06(01)號文件

(只備中文本)

財務匯報局條例草案委員會

譚香文主席

譚主席：

就財務匯報局的財政來源及財政預算安排

1. 財務匯報局的財政來源

~~本人發現財務匯報局並不如證監會(見附件一甲部)或部份法定機構，在條例列出該局的財政來源，故希望政府解釋此安排與其他機構的安排是否一致，而若有不一致，原因為何？政府會否考慮在條例中加入此部份？~~

2. 財務匯報局的財政預算

鑑於現時立法會無法監察部份機構，如金融管理局，的財政預算，而要待這些機構在財政年度結束後出版年報，立法會方獲知會。為更有效監察財務匯報局的運作，本人建議參考證監會的安排(見附件一乙部)，在草案內(例如草案第十七條)加入財務匯報局需將財政預算案交予立法會省覽。

財務匯報局條例草案委員會委員

單仲偕

單仲偕 謹啟

二零零六年六月六日

附件一

甲部

證券及期貨條例

第十四條 撥款

政府須就證監會每個財政年度，將立法會撥予證監會的款項，從政府一般收入中支付證監會。

乙部

證券及期貨條例

第十三條 財政年度及預算

- (1) 證監會的財政年度由每年的 4 月 1 日開始。
- (2) 證監會須在其每個財政年度的 12 月 31 日或之前，將下一個財政年度的收支預算呈交行政長官批准。
- (3) 財政司司長須安排將已依據第(2)款批准的預算提交立法會會議席上省覽。

The Administration's Views on Hon. Sin's Proposed CSA

Section 13(3) of the Securities and Futures Ordinance ("SFO", Cap. 571) should be distinguished from the relevant provision in the FRC Bill. Unlike the SFC (c.f. section 14 and Part XVI of the SFO), there are no provisions in the Bill for the FRC to be funded by general revenue or transaction levies, fees and charges on services rendered to market operators and participants. Furthermore, none of the four funding sources (viz. Companies Registry Trading Fund, Hong Kong Institute of Certified Public Accountants ("HKICPA"), SFC, Hong Kong Exchanges and Clearing Limited ("HKEx")) requires the approval of the LegCo in making contributions towards the FRC. The respective budgets of the Companies Registry Trading Fund, HKICPA and HKEx are not required to be laid before the LegCo either.

On the contrary, clause 20 of the Bill (**Annex A**) provides that the annual report, annual accounts, and auditors' report of the FRC should be laid before the LegCo. In our view, clause 20 already provides for an appropriate level of legislative scrutiny. We are also aware that there is no similar arrangement with respect to the laying of the estimates before the LegCo in the legislation pertinent to the operation of the Mandatory Provident Fund Schemes Authority and Deposit Protection Scheme Fund.

June 2006