

**Bills Committee on
Financial Reporting Council Bill**

First meeting on 19 July 2005

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

Function of the Financial Reporting Council (FRC)

1. To address members' concern on whether the function of the FRC should be purely investigatory, the Administration is requested to take the following actions and provide written response:
 - (a) To provide a paper on the regulatory regimes for various professions and industries in Hong Kong, including information on the statutory or professional body responsible for the investigation of irregularities of each of the professions and industries, and whether the same body is empowered to undertake prosecution and impose sanctions in respect of the irregularities;
 - (b) To further consider whether the function of the FRC should be purely investigatory, having regard to the following issues -
 - (i) The findings of item (a) above;
 - (ii) The merits, demerits and impact of splitting the powers to undertake investigation and prosecution; and
 - (iii) The merits, demerits and impact of splitting the powers to undertake investigation and impose sanctions.
 - (c) If the Administration maintains its original proposal that the function of the FRC should be purely investigatory, the Administration is requested to consider and respond to the following suggestions raised by members -
 - (i) To involve the Hong Kong Institute of Certified Public Accountants (HKICPA) and/or law enforcement agencies at an early stage of FRC's investigatory work; and
 - (ii) To put in place a mechanism for HKICPA and/or law enforcement agencies to set out the suspected case, including stating all possible offences of the auditor under investigation, for the FRC to undertake investigation to collect the relevant evidence.

Comparison with overseas practices and legislation

2. Having noted the comparison table in Annex A to LC Paper No. CB(1)2050/04-05(02), members request the Administration to provide a more detailed comparison of the regulatory regime for the accounting profession in Hong Kong and those in other jurisdictions, including a detailed comparison of FRC and similar regulatory bodies in other jurisdictions. The comparison should cover the following aspects-
 - (a) Powers and functions of the relevant regulatory bodies;
 - (b) Whether the relevant regulatory bodies are empowered to undertake investigation and prosecution and impose sanctions; if not, the title and functions of the body which has such powers;
 - (c) Effectiveness of the regulatory regimes, including the effectiveness in deterring and identifying irregularities; and
 - (d) Comparison of the proposals in the Bill and the relevant provisions in the Sarbanes-Oxley Act in the United States, including their respective background, objectives and scope of application.

Work plan

3. The Administration undertakes to provide a proposed work plan for the Bills Committee's consideration at the next meeting to be held on 27 September 2005. The work plan should include a proposed programme for the Bills Committee to scrutinize the Bill, with information on the following items:
 - (a) List of the major issues to be examined by the Bills Committee and the relevant clauses/schedules;
 - (b) The estimated number of meetings required for completing examination of each of the major issues;
 - (c) The estimated number of meetings required for completing examination of the Bill clause-by-clause and the draft proposed Committee Stage amendments, if any; and
 - (d) Target date for completing scrutiny of the Bill (assuming that meetings of the Bills Committee will be held at three-week intervals from October 2005 onwards).
4. In connection with item 3(a) above, the Administration undertakes to provide papers to brief members on each of the major issues in due course. The papers should cover the objective and the gist of the relevant

provisions in the Bill, relevant local and overseas legislation, and the Administration's response to the following questions raised by members:

- (a) What is the legal status of the FRC? Is it an independent public body?
- (b) To whom the FRC is accountable?
- (c) What is the extent of the investigatory powers of the FRC?
- (d) Does the Bill provide for the handling of witnesses and experts?
- (e) Is there any professional support for the FRC, such as legal advice?
- (f) Is there any immunity provision for the FRC?
- (g) Why does the Administration not propose to set up a separate body to hear appeals against the decisions of the FRC?
- (h) What are the rights of the persons who are under the investigation of the FRC? How would their rights be protected?

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