

FINANCIAL REPORTING COUNCIL BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for
Financial Services and the Treasury

Clause

Amendment Proposed

2(1)

- (a) In the definition of "associated undertaking", in paragraph (a)(i), by deleting "a subsidiary of the corporation within the meaning of section 2 of the Companies Ordinance (Cap. 32)" and substituting "a subsidiary undertaking, as construed in accordance with the Twenty-third Schedule to the Companies Ordinance (Cap. 32), of the corporation".
- (b) In the definition of "relevant undertaking", by deleting paragraph (a)(i) and substituting -
- "(i) a subsidiary undertaking, as construed in accordance with the Twenty-third Schedule to the Companies Ordinance (Cap. 32), of the corporation; or".
- (c) By adding -
- "public officer" (公職人員) -

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(a) means a person holding an office of emolument under the Government, whether such office be permanent or temporary; but

(b) does not include -

(i) a person holding such an office by virtue only of being the chairman of a board or tribunal established under an Ordinance; or

(ii) a person who is a judicial officer for the purpose of section 2 of the Judicial Officers Recommendation Commission Ordinance (Cap. 92) or a judicial officer appointed by the Chief Justice;".

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- 3(1) (a) In the Chinese text, in the definition of "上市法團", by deleting "曾經" where it twice appears and substituting "會".
- (b) In the Chinese text, in the definition of "上市集體投資計劃", by deleting "曾經" where it twice appears and substituting "會".
- 5 (a) In subclause (1), by deleting "within the meaning of Part 1 of that Schedule" and substituting ", within the meaning of Part 1 of that Schedule, that applies to the report".
- (b) In subclause (2), by deleting "within the meaning of Part 2 of that Schedule" and substituting ", within the meaning of Part 2 of that Schedule, that applies to the report".
- 7 (a) In subclause (1)(c)(iv), by adding "from amongst persons who either because of their experience in accounting, auditing, finance, banking, law, administration or management, or because of their professional or occupational experience, appear to the Chief

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Executive to be suitable for such
appointment" after "Chief Executive".

(b) By adding -

"(5A) The Council may perform any of its
functions, and its proceedings are valid,
despite -

- (a) a vacancy in the membership
of the Council;
- (b) a defect in the appointment
or qualification of a person
purporting to be a member of
the Council; or
- (c) a minor irregularity in the
convening of any meeting of
the Council."

10(2)

- (a) In paragraph (a), by adding "a committee
established by the Council," after
"Committee,".
- (b) In paragraph (b), by deleting "in the
performance of its functions" and
substituting ", the Investigation Board, a
Review Committee, a committee established by
the Council, or any or all of them, in the
performance of its or their functions".

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13(1) (a) In the English text, by deleting "performs" and substituting "perform".

21 In subclauses (2), (3) and (4), by deleting "Division 3" and substituting "Divisions 3 and 4".

22 By adding -

"(3A) The Investigation Board may perform any of its functions, and its proceedings are valid, despite -

(a) a vacancy in the membership of the Board;

(b) a defect in the appointment or qualification of a person purporting to be a member of the Board; or

(c) a minor irregularity in the convening of any meeting of the Board.".

28(1) By adding "a person who is, or was at the material time," after "require".

34(4) (b) By deleting everything after "required" and substituting -

"for -

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- (i) any criminal proceedings;
- (ii) any proceedings before the Market Misconduct Tribunal; or
- (iii) any proceedings under this Ordinance or Part V of the Professional Accountants Ordinance (Cap. 50),

such longer period as may be necessary for the purpose of those proceedings."

35

By deleting the clause and substituting -

"35. Investigation reports

(1) As soon as practicable after the completion of an investigation under this Part, the investigator shall prepare a written report on the findings of the investigation.

(2) The investigator may, if it thinks fit, prepare an interim report on the investigation. But if the investigator falls within section 21(2), (3) or (4), the investigator shall also prepare an interim report on the investigation as soon as practicable after being required by the Council to do so.

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(3) The Council may adopt a report prepared under subsection (1) or (2).

(4) If, in the Council's opinion, any person named in a report prepared under subsection (1) or (2) would in the event of a publication or other disclosure of the report, or any part of the report, be adversely affected by the publication or disclosure, the investigator shall, before the report is adopted under subsection (3), first give the person a reasonable opportunity of being heard.

(5) After having adopted a report under subsection (3), the Council may cause the report, or any part of the report, to be published.

(6) In deciding whether or not to cause a report, or any part of a report, to be published under subsection (5), the Council shall take into account -

(a) whether or not the publication may adversely affect -

(i) any criminal proceedings before a court or magistrate;

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(ii) any proceedings
before the Market
Misconduct Tribunal;
or

(iii) any proceedings
under Part V of the
Professional
Accountants
Ordinance (Cap. 50),

that have been or are likely
to be instituted;

(b) whether or not the
publication may adversely
affect any person named in
the report; and

(c) whether or not the report, or
that part of the report,
should be published in the
interest of the investing
public or in the public
interest.

(7) In any civil proceedings before a
court or any proceedings before the Market
Misconduct Tribunal or under Part V of the
Professional Accountants Ordinance (Cap. 50),
a document purporting to be a copy of a

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report adopted under subsection (3), and purporting to be certified by the Chairman of the Council as a true copy of such a report, is, on its production without further proof, admissible as evidence of the facts stated in the report."

36 By deleting subclause (2) and substituting -

"(2) The Council shall not, in relation to an investigation under this Part, exercise a power under subsection (1) unless the Council has taken into account the report prepared under section 35(1) or (2) in relation to the investigation."

39 (a) In subclause (1), by adding "either because of their experience in accounting, auditing, finance, banking, law, administration or management, or because of their professional or occupational experience" after "Review Committee".

(b) In subclause (2), by adding "at least" before "3".

40 (a) By deleting subclause (1)(b) and substituting -

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"(b) the Council may appoint a Financial Reporting Review Committee consisting of -

(i) a Panel Convenor appointed under section 39(2), who is to be the Chairman of the Review Committee; and

(ii) at least 4 other members of the Review Panel,

to enquire, with those powers, into the non-compliance and the question."

(b) By adding -

"(1A) On making an appointment under subsection (1)(b), the Council shall notify the listed entity in writing of the names of the members of the Review Committee."

(c) By deleting subclause (2) and substituting -

"(2) The Council shall, on making an appointment under subsection (1)(b), specify the terms of reference of the Review Committee, and the Committee shall act in accordance with those terms."

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"(1) A Review Committee may perform any of its functions, and its proceedings are valid, despite -

- (a) a vacancy in the membership of the Committee;
- (b) a defect in the appointment or qualification of a person purporting to be a member of the Review Panel or the Committee; or
- (c) a minor irregularity in the convening of any meeting of the Committee."

44(2) (a) By adding "and" at the end.

47 By deleting the clause and substituting -

"47. Enquiry reports

(1) As soon as practicable after the completion of an enquiry under this Part, the enquirer shall prepare a written report on the findings of the enquiry.

(2) The enquirer may, if it thinks fit, prepare an interim report on the enquiry. But if the enquirer falls within section 38(2), the enquirer shall also prepare an

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interim report on the enquiry as soon as practicable after being required by the Council to do so.

(3) The Council may adopt a report prepared under subsection (1) or (2).

(4) If, in the Council's opinion, any person named in a report prepared under subsection (1) or (2) would in the event of a publication or other disclosure of the report, or any part of the report, be adversely affected by the publication or disclosure, the enquirer shall, before the report is adopted under subsection (3), first give the person a reasonable opportunity of being heard.

(5) After having adopted a report under subsection (3), the Council may cause the report, or any part of the report, to be published.

(6) In deciding whether or not to cause a report, or any part of a report, to be published under subsection (5), the Council shall take into account -

- (a) whether or not the publication may adversely affect -

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- (i) any criminal proceedings before a court or magistrate;
- (ii) any proceedings before the Market Misconduct Tribunal; or
- (iii) any proceedings under Part V of the Professional Accountants Ordinance (Cap. 50),

that have been or are likely to be instituted;

- (b) whether or not the publication may adversely affect any person named in the report; and
- (c) whether or not the report, or that part of the report, should be published in the interest of the investing public or in the public interest.

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(7) In any civil proceedings before a court or any proceedings before the Market Misconduct Tribunal or under Part V of the Professional Accountants Ordinance (Cap. 50), a document purporting to be a copy of a report adopted under subsection (3), and purporting to be certified by the Chairman of the Council as a true copy of such a report, is, on its production without further proof, admissible as evidence of the facts stated in the report."

48

By deleting subclause (2) and substituting -

"(2) The Council shall not, in relation to an enquiry under this Part, exercise a power under subsection (1) unless the Council has taken into account the report prepared under section 47(1) or (2) in relation to the enquiry."

49

By deleting subclause (1) and substituting -

"(1) If, after the Council has taken into account a report prepared under section 47(1) or (2) for an enquiry concerning a relevant non-compliance in relation to a listed entity, it appears to the Council that

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there is or may be a question whether or not there is such a relevant non-compliance, the Council may give a written notice to the operator of the listed entity in accordance with subsection (1A).

(1A) The notice is to -

(a) indicate the respects in which it appears to the Council that such a question arises or may arise;

(b) specify -

(i) such manner of revising the relevant financial report of the listed entity as the Council thinks fit;
or

(ii) such other remedial action concerning that report as the Council thinks fit;
and

(c) specify a period for the operator to -

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- (i) give a satisfactory explanation of the relevant financial report of the entity;
- (ii) cause that report to be revised in such manner as specified in the notice; or
- (iii) take such other remedial action concerning that report as specified in the notice."

50

By deleting subclause (1) and substituting -

"(1) This section applies if -

- (a) the Council gives a notice to the directors of a listed corporation under section 49(1); and
- (b) at the end of the period specified in the notice, or such longer period as the Council may allow, it appears

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to the Council that the
directors have not -

- (i) given a satisfactory explanation of the relevant financial report of the corporation;
- (ii) caused that report to be revised in such manner as specified in the notice; or
- (iii) taken such other remedial action concerning that report as specified in the notice."

51

(a) By deleting subclause (3) (b) (ix) and substituting -

"(ix) the Official Receiver in a capacity other than that of a liquidator or provisional liquidator appointed under, or holding such office by virtue of, the Companies Ordinance (Cap. 32);".

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(b) By deleting subclause (3)(c) and substituting -

"(c) subject to subsection (4), if there is or has been an investigation under Part 3 concerning a relevant irregularity, or an enquiry under Part 4 concerning a relevant non-compliance, in relation to a listed corporation, disclose information on the listed corporation to -

(i) the Official Receiver in the capacity of a liquidator or provisional liquidator of the listed corporation appointed under, or holding such office by virtue of, the Companies Ordinance (Cap. 32); or

(ii) any other person who -

(A) is a liquidator or provisional liquidator of the listed corporation appointed under the Companies Ordinance (Cap. 32); or

(B) acts in a similar capacity in relation to

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the listed corporation
under any law of a place
outside Hong Kong;".

- (c) In subclause (4), by deleting "or (b)" and substituting ", (b) or (c)".
- (d) In subclause (10) (b) (i), in the English text, by deleting "subsections" and substituting "subsection".
- (e) In subclause (13) (b) (i), in the Chinese text, by deleting "曾經" and substituting "會".
- (f) In subclause (13) (b) (ii), in the Chinese text, by deleting "曾經" and substituting "會".

New

By adding -

"51A. Protection of informers

(1) Any information on the identity of a relevant person is not admissible in evidence in -

- (a) any civil or criminal proceedings before a court or magistrate;
 - (b) any proceedings before the Market Misconduct Tribunal;
- or

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- (c) any proceedings under Part V of the Professional Accountants Ordinance (Cap. 50).

(2) In such proceedings, a witness is not obliged -

- (a) to disclose the name or address of a relevant person who is not a witness in those proceedings; or
- (b) to state any matter that would lead, or would tend to lead, to discovery of the name or address of a relevant person who is not a witness in those proceedings.

(3) If a book, document or paper that is in evidence, or liable to inspection, in such proceedings contains an entry -

- (a) in which a relevant person is named or described; or
- (b) that might lead to discovery of a relevant person,

the court, the magistrate, the Market Misconduct Tribunal or the Disciplinary Committee constituted under section 33(3) of

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the Professional Accountants Ordinance (Cap. 50), as the case may be, shall cause all such passages to be concealed from view, or to be obliterated, so far as may be necessary to protect the relevant person from discovery.

(4) In such proceedings, the court, the magistrate, the Market Misconduct Tribunal or the Disciplinary Committee, as the case may be, may, despite subsection (1), (2) or (3), permit inquiry, and require full disclosure, concerning a relevant person if -

(a) it is of the opinion that justice cannot be fully done between the parties to the proceedings without disclosure of the name of the relevant person; or

(b) in the case of a relevant person falling within paragraph (a) of the definition of "relevant person" in subsection (6), it is satisfied that the relevant person made a material statement that he -

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- (i) knew or believed to be false; or
- (ii) did not believe to be true.

(5) This section has effect despite sections 35 and 47.

(6) In this section, "relevant person" (有關人士) means -

- (a) an informer who has given information to the Council, the Investigation Board or a Review Committee with respect to an investigation under Part 3 or an enquiry under Part 4; or
- (b) a person who has assisted the Council, the Investigation Board or a Review Committee with respect to such an investigation or enquiry."

52

- (a) By deleting subclause (3)(a) and substituting -
- "(a) a listed corporation in the securities of which he has an interest;

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- (aa) a listed collective investment scheme in the interests of which he has an interest; or".
- (b) In subclause (5) (a), by deleting "or" at the end.
- (c) In subclause (5) (b), by deleting the full stop and substituting "; or".
- (d) In subclause (5), by adding -
 - "(c) keep or be given any document, or the relevant part of any document, that contains a record of, or is issued for the purpose of, such deliberation or decision."
- (e) In subclause (6) (a), by deleting "or".
- (f) In subclause (6) (b), by deleting the full stop and substituting "; or".
- (g) In subclause (6), by adding -
 - "(c) keep or be given any document, or the relevant part of any document, that contains a record of, or is issued for the purpose of, such deliberation or the making of such determination."
- (h) By adding -
 - "(6A) If the Council determines under subsection (5) that a person may be present during any deliberation, or take part in any

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decision, of the Council, Investigation Board or Review Committee, or a committee established by the Council, the Council shall give written notice of the determination to -

(a) in the case of a deliberation or decision with respect to an investigation under Part 3 concerning an auditing irregularity, the auditor concerned;

(b) in the case of a deliberation or decision with respect to an investigation under Part 3 concerning a reporting irregularity, the reporting accountant concerned; or

(c) in the case of a deliberation or decision with respect to an enquiry under Part 4 concerning a relevant non-compliance, the listed entity concerned.".

(i) In subclause (9), in the definition of "associate", in paragraph (j), by adding "or" at the end.

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- (j) In subclause (9), in the definition of "associate", by deleting paragraph (k).
- (k) In subclause (9), in the definition of "associate", in paragraph (l), by deleting "(k)" and substituting "(j)".
- (l) In subclause (9), in the English text, in the definition of "associate", in paragraph (l)(ii), by deleting the semicolon and substituting a full stop.
- (m) In subclause (9), by deleting the definition of "related corporation".

53

By deleting the clause and substituting -

"53. Immunity

(1) A person who complies with a requirement imposed on him under section 25, 26, 27, 28, 34 or 43 does not incur any civil liability, whether arising in contract, tort, defamation, equity or otherwise, by reason only of the compliance.

(2) A person does not incur any civil liability, whether arising in contract, tort, defamation, equity or otherwise, in respect of anything done, or omitted to be done, by him in good faith in the performance, or purported performance, of the functions of

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the Council, the Investigation Board, a Review Committee or a committee established by the Council."

- 54
- (a) In subclause (1), in the Chinese text, by deleting "不得僅因" and substituting "無須僅因".
 - (b) In subclause (2), by deleting "Subsection" and substituting "For the avoidance of doubt, subsection".
 - (c) In subclause (3) (a), in the Chinese text, by deleting "不論指" and substituting "不論是".

56

In subclauses (1) (b) and (2) (b), in the English text, by deleting "the record" and substituting "such record".

- 59
- (a) In subclause (1) (a), by deleting "42, 48(3) or 49(1)" and substituting "40(1A), 42, 48(3), 49(1) or 52(6A) or section 3(2) of Schedule 6".
 - (b) In subclause (2) (c), by deleting "non-Hong Kong company within the meaning of section 2(1) of the Companies Ordinance (Cap. 32)" and substituting "company to which Part XI of the Companies Ordinance (Cap. 32) applies".

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- (c) In subclause (2)(c)(i), by deleting "Part XI of that Ordinance" and substituting "that Part".
- (d) In subclause (2)(e), by deleting "or a non-Hong Kong company" and substituting ", or a company to which Part XI of the Companies Ordinance (Cap. 32) applies".

61

- (a) In the heading, in the English text, by deleting "**Sections**" and substituting "**Section**".
- (b) In the cross-heading before the proposed section 141E, by deleting "**defective**".
- (c) By deleting the proposed section 141E(1) and (2) and substituting -

"(1) If -

- (a) a copy of any accounts of a company has been sent under section 129G to a person entitled to be sent the copy; and
- (b) it appears to the directors of the company that the accounts did not comply with this Ordinance,

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the directors may cause the accounts to be revised and make necessary consequential revisions to the summary financial report or directors' report concerned.

(2) Such revision of the accounts is to be confined to -

(a) those aspects in which the accounts did not comply with this Ordinance; and

(b) other necessary consequential revisions."

(d) In the proposed section 141E(4), by deleting everything after "who" and substituting "is in default, shall be liable to a fine and, for continued default, to a daily default fine."

New

By adding -

"61A. Section added

The following is added -

**"336A. Voluntary revision
of accounts**

(1) If -

(a) a certified copy of any accounts of an oversea company has been delivered to the

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Registrar for
registration under
section 336; and

(b) it appears to the
directors of the company
that the accounts did
not comply with the
relevant requirements,
the directors may cause the accounts to
be revised and make necessary
consequential revisions to the
directors' report concerned.

(2) Such revision of the accounts
is to be confined to -

(a) those aspects in which
the accounts did not
comply with the relevant
requirements; and

(b) other necessary
consequential revisions.

(3) If the directors of an
oversea company decide to cause any
accounts of the company to be revised
under subsection (1), the company
shall, as soon as practicable after the
decision, deliver to the Registrar for

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registration a warning statement, in the specified form, that the accounts will be so revised.

(4) In this section, "relevant requirements" (有關規定), in relation to the accounts of an oversea company, means -

(a) the law for the time being applicable to that company in the place of its incorporation or origin; or

(b) in the case where section 336(4) applies to that company, this Ordinance."."

62

(a) By deleting -

"62. Section added

The following is added -"

and substituting -

"62. Section substituted

Section 336A (as added by section 61A of this Ordinance) is repealed and the following substituted -".

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- (b) In the proposed section 336A(1) (a), in the English text, by deleting "have" and substituting "has".
- (c) In the proposed section 336A(2) (a), by deleting "the correction of".
- (d) In the proposed section 336A(2) (b), by deleting "the making of" and substituting "other".

63

- (a) In the proposed section 359A(3) (b), by deleting "that have" and substituting "or directors' report that has".
- (b) In the proposed section 359A(4) (c) (ii), by deleting "under" and substituting "in compliance with".
- (c) In the proposed section 359A(4) (c), by adding "the company or" after "require".
- (d) In the proposed section 359A(5) (a), by deleting "have" and substituting "or directors' report has".
- (e) In the proposed section 359A(5) (a) (i) and (ii), by adding "or report" after "accounts".
- (f) In the proposed section 359A(5) (b), by deleting "the non-Hong Kong company" and substituting "a company to which section 336A applies".

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(g) In the proposed section 359A(5) (b), by deleting "that have" and substituting "or directors' report that has".

(h) In the proposed section 359A(5) (c), by deleting "that have" and substituting "or directors' report that has".

(i) By adding -

"(6) Regulations made under subsection (3) may -

(a) provide that any of the following is an offence -

(i) a failure to take all reasonable steps to secure compliance as respects the accounts, summary financial report or directors' report that has been revised with -

(A) a specified provision of the regulations; or

(B) a specified provision of

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this Ordinance
as having
effect under
the
regulations;

(ii) a contravention of -

(A) a specified
provision of
the
regulations; or

(B) a specified
provision of
this Ordinance
as having
effect under
the
regulations;

(b) provide that such an offence
is punishable -

(i) by a fine not
exceeding \$300,000,
or by a term of
imprisonment not
exceeding 12 months,
or by both such fine

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and imprisonment;

and

(ii) in the case where a person is convicted of such an offence after continued default, refusal or contravention, also by a fine not exceeding \$700 for each day on which the default, refusal or contravention is continued;

(c) provide for any specified defence to be available in proceedings for such an offence; and

(d) provide that a court shall not sentence a person to imprisonment for such an offence unless satisfied that the offence was committed wilfully."

New

By adding -

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"70A. Disciplinary provisions

Section 34 is amended -

(a) in subsection (1) (a), by

adding -

"(ia) has been convicted
of any offence under
section 31 of the
Financial Reporting
Council Ordinance
(of 2006);

(ib) has been punished by
the Court of First
Instance under
section 32(2) (b) of
the Financial
Reporting Council
Ordinance (of
2006) for failing to
comply with a
requirement imposed
under section 25,
26, 27 or 28 of that
Ordinance or for
being involved in
the failure;

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(ic) has been punished by the Court of First Instance under section 45(2)(b) of the Financial Reporting Council Ordinance (of 2006) for failing to comply with a requirement imposed under section 43 of that Ordinance or for being involved in the failure;"

(b) in subsection (1AA), by repealing "(iv) to (ix)" and substituting "(ia), (ib), (ic), (iv), (v), (vi), (vii), (viii) and (ix)".

New

By adding -

"72A. Section added

The following is added -

**"42CA. Referral of matter
to FRC**

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(1) Where it appears to the Council that there are circumstances suggesting -

(a) that -

(i) a certified public accountant has acted in a manner described in section 34(1)(a)(iii), (xi) or (xii);

(ii) section 34(1)(a)(iv), (vi), (viii), (ix) or (x) applies to a certified public accountant or a firm of certified public accountants

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(practising);

or

(iii) section

34(1)(a) (as

applied by

section

34(1AA)) or (b)

applies to a

corporate

practice; and

(b) that the matter

constitutes a relevant

irregularity in relation

to a listed entity for

the purposes of the

Financial Reporting

Council Ordinance (of

2006),

the Council shall refer the matter to the FRC and shall not, even if it may do so under section 42C(2)(a), constitute an Investigation Committee in relation to the matter.

(2) For the avoidance of doubt, subsection (1) does not apply if a complaint of the matter is submitted to

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the Council, or the matter otherwise comes to the Council's attention, before the commencement of section 72A of the Financial Reporting Council Ordinance (of 2006)."."

74

By deleting the clause and substituting -

"74. Official secrecy

Section 120(5A) of the Banking Ordinance (Cap. 155) is amended -

- (a) in paragraph (b), by
repealing "or";
- (b) in paragraph (c), by
repealing the full stop at
the end and substituting "
or";

(c) by adding -

"(e) the Financial Reporting Council established by section 6(1) of the Financial Reporting Council Ordinance (of 2006)."."

New

By adding immediately after clause 75 -

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**"75A. Public bodies specified
for purposes of
definition of "public
servant"**

Schedule 2 is amended by adding -

"8. Financial Reporting Council."."

76 In the Chinese text, by deleting "加入"財務匯報
局。"。" and substituting -

"加入 —

"財務匯報局。"。".

77 In the proposed item 6A(b), by deleting
"sponsoring" and substituting "making
contributions, whether in cash or in kind, to
sponsor".

Schedule 1 In Part 1, in the Chinese text, in the definition
of "有關財務報告", in paragraph (a)(iv)(C), by
adding "刊登、" after "傳閱、".

Schedule 2,
section 3 (a) By deleting the heading and substituting -
"Acting Chairman or temporary member".

(b) By deleting subsection (1) and substituting -

"(1) If -

(a) because of absence from Hong
Kong or any other reason, the

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Chairman of the Council is
unable to perform the
functions of his office as
Chairman; or

- (b) there is a vacancy in the
office of Chairman of the
Council,

the Chief Executive may appoint another
appointed member of the Council who is a lay
person to act as Chairman of the Council
during the absence, incapacity or vacancy."

- (c) By deleting subsection (4) and substituting -

"(4) If a person is appointed to act as
Chairman of the Council, the person may
perform all the functions of the Chairman.

(5) If a person is appointed as a
temporary member of the Council, the person
may perform all the functions of the member
in whose place the person is appointed."

Schedule 2,
section 5

By adding -

"(3) Subsection (4) applies if notice of
a declaration is given under subsection (2)
otherwise than by notice published in the
Gazette.

ALL PASSED

(4) The Chief Executive shall, as soon as practicable after having given notice under subsection (2), give another notice of the declaration by notice published in the Gazette."

Schedule 2,
section 6

(a) In subsection (3), by deleting "Schedule" and substituting "Ordinance".

(b) By adding -

"(5A) If a member of the Council is required under section 52(5) or (6) of this Ordinance not to be present during any deliberation of, or not to take part in any decision of or the making of a determination by, the Council, he is not to be counted for the purpose of forming a quorum at such part of a meeting of the Council that is held for such deliberation or decision or the making of such determination."

Schedule 3,
section 1

In subsection (3), by deleting "A notice" and substituting "Unless it is otherwise provided in the terms and conditions of the appointment determined under section 3, a notice".

Schedule 3

By deleting section 2 and substituting -

ALL PASSED

"2. **Acting Chief Executive Officer**

(1) If -

(a) because of absence from Hong Kong or any other reason, the Chief Executive Officer of the Council is unable to perform the functions of his office as Chief Executive Officer; or

(b) there is a vacancy in the office of Chief Executive Officer of the Council,

the Chief Executive may appoint another person to act as Chief Executive Officer of the Council during the absence, incapacity or vacancy.

(2) If a person is appointed to act as Chief Executive Officer of the Council, the person may perform all the functions of the Chief Executive Officer."

Schedule 3,
section 4

By adding -

"(3) Subsection (4) applies if notice of a declaration is given under subsection (2) otherwise than by notice published in the Gazette.

ALL PASSED

(4) The Chief Executive shall, as soon as practicable after having given notice under subsection (2), give another notice of the declaration by notice published in the Gazette."

Schedule 4 By adding -

"1A. Temporary member

(1) If, because of absence from Hong Kong or any other reason, a member of the Investigation Board, other than the chairman, is unable to perform the functions of his office as member, the Council may appoint another person to be a temporary member in his place during his absence or incapacity.

(2) If a person is appointed as a temporary member of the Investigation Board, the person may perform all the functions of the member in whose place the person is appointed.

1B. Removal of members

(1) If the Council is satisfied that a member of the Investigation Board appointed under section 22(2)(b) of this Ordinance -

(a) has become bankrupt;

ALL PASSED

- (b) is incapacitated by physical or mental illness;
- (c) is convicted in Hong Kong of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in Hong Kong of an offence that, if committed in Hong Kong, would be an offence so punishable; or
- (d) is otherwise unable or unfit to perform the functions of a member of the Investigation Board,

the Council may declare his office as member of the Investigation Board to be vacant, and upon such declaration the office becomes vacant.

(2) The Council shall give notice of a declaration under subsection (1) in such manner as it thinks fit.

(3) Subsection (4) applies if notice of a declaration is given under subsection (2) otherwise than by notice published in the Gazette.

ALL PASSED

(4) The Council shall, as soon as practicable after having given notice under subsection (2), give another notice of the declaration by notice published in the Gazette."

Schedule 4,
section 2

(a) In the heading, by adding ", etc." after "proceedings".

(b) By deleting subsection (2) and substituting -

"(2) The quorum for a meeting of the Investigation Board is 2 members of the Board or one half of the members of the Board, whichever is the greater.

(3) If a member of the Investigation Board is required under section 52(5) of this Ordinance not to be present during any deliberation of, or not to take part in any decision of, the Board, he is not to be counted for the purpose of forming a quorum at such part of a meeting of the Board that is held for such deliberation or decision.

(4) The Investigation Board may transact any of its business by circulation of papers.

ALL PASSED

(5) The Investigation Board may, subject to this Ordinance and any direction of the Council, determine -

- (a) the procedure for convening meetings of the Board and for the conduct of business at those meetings; and
- (b) the procedure in the transaction of business of the Board by circulation of papers."

Schedule 5, section 2 By adding -

"(3) Subsection (4) applies if notice of a declaration is given under subsection (2) otherwise than by notice published in the Gazette.

(4) The Chief Executive shall, as soon as practicable after having given notice under subsection (2), give another notice of the declaration by notice published in the Gazette."

Schedule 6 Within the square brackets, by adding ", 59" after "41".

ALL PASSED

Schedule 6,
section 1

- (a) In the heading, by adding ", **etc.**" after "**proceedings**".
- (b) By deleting subsection (2) and substituting -
- "(2) The quorum for a meeting of a Review Committee is one half of the members of the Committee.
- (3) If a member of a Review Committee is required under section 52(5) of this Ordinance not to be present during any deliberation of, or not to take part in any decision of, the Committee, he is not to be counted for the purpose of forming a quorum at such part of a meeting of the Committee that is held for such deliberation or decision.
- (4) A Review Committee may transact any of its business by circulation of papers.
- (5) A Review Committee may, subject to this Ordinance and any direction of the Council, determine -
- (a) the procedure for convening meetings of the Committee and for the conduct of business at those meetings; and

ALL PASSED

(b) the procedure in the transaction of business of the Committee by circulation of papers."

Schedule 6,
section 3

(a) By renumbering the section as section 3(1).

(b) By adding -

"(2) If the Council appoints a member of the Review Panel, or a Panel Convenor, under subsection (1) to fill a vacancy, the Council shall notify the listed entity concerned in writing of the name of the member or Panel Convenor."

ALL PASSED