

**Bills Committee on Anti-Money Laundering and
Counter-Terrorist Financing (Financial Institutions) Bill**

**Information/response to be provided by the Administration in response to
Members' requests made at the meeting on 24 January 2011**

1. To explain the rationale for including “all other assistance” in clause 12(2)(d).
2. In relation to clause 13(7) and (8), to
 - (a) provide examples of the use of “concerned in the management of [an institution]” in other legislation; and
 - (b) provide examples of the use of “causes or allows [an institution] to fail to comply” in other legislation and information on any case law to illustrate the scenario caught by such provision.
3. In relation to clause 14, to
 - (a) clarify the need for the provision for an authorized person or an investigator to apply to the Court of First Instance relating to non-compliance with requirements under clause 9 or 12, considering that such non-compliance is a criminal offence under clause 10 or 13, and in this connection, consider if a person being required to comply with requirements made under clause 9 or 12 should be allowed to make an application to the Court of First Instance to set aside the requirements; and
 - (b) clarify the need for clauses 13(10) and 14(4) given that there is already protection against res judicata under the common law.
4. To consider whether apart from the claims for a lien, the Bill should include provisions to clarify that other claims in relation to a legal right or obligation should not affect the requirement to produce records or documents under Part 3 of the Bill.

5. In relation to clause 17, to
 - (a) confirm that a warrant issued under clause 17 would not be executed by the Police alone;
 - (b) consider whether provisions on the procedures for sealing documents pending determination by the court on legal professional privilege should be incorporated under this clause; and
 - (c) clarify whether under sub-clause(3)(b) which empowers the “authorized person” to “take any other step that appears to the authorized person to be necessary...”, the authorized person may require a person on the premises subject to a warrant to perform a certain act.

6. In relation to clause 21, to
 - (a) consider whether it is necessary to amend sub-clause (2)(c) to take into account the profit gained or cost avoided by a third party as a result of the contravention in determining the maximum level of fine; and
 - (b) with reference to sub-clause (5), provide examples of other legislation providing for the registration of orders to pay pecuniary penalties in the Court of First Instance.

7. To confirm whether the Law Society of Hong Kong and the Hong Kong Bar Association has made any comment relating to "legal professional privilege" in response to the Administration's past consultations or the Bills Committee's invitation for views on the Bill.