

Bills Committee on Securities and Futures (Amendment) Bill 2015

**List of follow-up action arising from the discussion
at the meeting on 7 July 2015**

Provision of supervisory assistance by the Securities and Futures Commission ("SFC") to regulators outside Hong Kong

1. The Administration is requested to –
 - (a) clarify whether SFC, in considering a request for supervisory assistance from a regulator outside Hong Kong under section 186 of the Securities and Futures Ordinance (Cap. 571) and the proposed amendments under the Bill, will take into account whether the request is compliant with the domestic laws of the requesting regulator; and how SFC would deal with the situation where the requesting regulator circumvents legal requirements in its own jurisdiction and obtains information via the supervisory assistance mechanism;
 - (b) explain the legal rights and protections for licensed corporations ("LCs") regulated by SFC and the actions LCs may take if, for legitimate reasons or practical difficulties, they cannot provide information to SFC for rendering supervisory assistance to a regulator outside Hong Kong upon request; or they feel aggrieved by SFC's decision to provide information to the requesting regulator; and
 - (c) address members' concerns about the potential ineffectiveness of the safeguards against onward disclosure or unauthorized use of information provided by SFC to a regulator outside Hong Kong if there is no legal sanction against the requesting regulator for breaching of its undertakings on the safeguards.

Supervisory memorandum of understanding ("MoU")

2. The Administration is requested to provide the following information –
 - (a) the mechanism and process for SFC to enter into supervisory MoUs with regulators outside Hong Kong, and a template of supervisory MoU;

- (b) whether the Administration/SFC would consider subjecting supervisory MoUs to negative vetting by the Legislative Council ("LegCo") as suggested by a member in the light of the present arrangement that a tax information exchange agreement entered into between the Government and another jurisdiction is subject to LegCo's negative vetting;
- (c) the mechanism in place/to be put in place to ensure that SFC will fully comply with the relevant legislation and guidelines when entering into supervisory MoUs, and to facilitate LegCo's monitoring of such;
- (d) how the Process Review Panel ("PRP") for SFC can help monitor SFC's work in the signing of supervisory MoUs and related exchange of information with regulators outside Hong Kong, in particular whether PRP is vested with the powers to look into individual cases of information exchange, and the circumstances that may trigger a case review by PRP; and
- (e) a copy of PRP's latest annual report for members' reference.