

Extract

立法會

Legislative Council

LC Paper No. CB(1)1162/15-16
(These minutes have been seen
by the Administration)

Ref : CB1/PL/FA/1

Panel on Financial Affairs

Minutes of meeting

held on Monday, 6 June 2016 at 10:15 am

in Conference Room 3 of the Legislative Council Complex

Members present : Hon NG Leung-sing, SBS, JP (Chairman)
Hon Christopher CHEUNG Wah-fung, SBS, JP
(Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, JP
Hon CHAN Kin-por, BBS, JP
Hon LEUNG Kwok-hung
Hon James TIEN Pei-chun, GBS, JP
Hon Charles Peter MOK, JP
Hon Kenneth LEUNG
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP

Members attending : Hon WONG Kwok-hing, BBS, MH
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Yuen-han, SBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon TANG Ka-piu, JP

Member absent : Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Public officers attending : Agenda Item III

Mr AU Ka Shing, Billy
Principal Assistant Secretary for Financial Services
and the Treasury (Financial Services)4

Ms WONG Wing Ting, Tracy
Director, Admission
Hong Kong Institute of Certified Public Accountants

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Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)4

Staff in attendance : Mr Hugo CHIU
Senior Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

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III Briefing on the proposed Members' Bill to amend the Professional Accountants Ordinance

(LC Paper No. CB(1)987/15-16(02) — Letter dated 20 May 2016
from Hon Kenneth LEUNG
(English version only))

Briefing on the Bill

3. At the invitation of the Chairman, Mr Kenneth LEUNG briefed the Panel on the draft Professional Accountants (Amendment) Bill 2016 which he intended to introduce as a Members' Bill into the Legislative Council ("LegCo") to amend the Professional Accountants Ordinance (Cap. 50) ("PAO") with a view to tightening up usage of the term "Certified Public Accountant". He said that currently it was an offence under section 42(1)(ha) of PAO for a company not being a corporate practice to use descriptions "certified public accountant (practising)" or "public accountant"; the initials "CPA (practising)", "PA", or the characters "執業會計師", "註冊核數師", "核數師" or "審計師", in its name in connection with its business. Furthermore, it was an offence for a company not being a corporate practice to use the descriptions "certified public accountant", the initials "CPA" or the characters "會計師" with the intention of causing, or in a way which might reasonably cause a person to believe that it was a practice unit. Nevertheless, it was observed that some companies which were not a corporate practice had been using in their names terms such as "Professional Accounting Services", "Professional Accounting and Secretary", "Professional Accounting and Secretarial Services", or "Professional Accounting and Taxation". Such terms might cause confusion and lead the public to believe that such companies were practice units qualified to provide professional accounting service under PAO. For instance, some unscrupulous financial intermediaries had been operating under misleading names, including "accounting firms", in conducting business relating to money lending. Mr LEUNG said that with passage of his Members' Bill, the general public could ascertain easily whether a person was a certified public accountant holding a practising certificate or whether a company was a practice unit who were qualified to provide professional accounting service under PAO.

Discussion

4. Mr Andrew LEUNG was concerned that the proposed restrictions under the Members' Bill might be over stringent. He remarked that some individuals and companies might engage small consulting firms (who were not practice units registered with the Hong Kong Institute of Certified Public Accountants ("HKICPA")) to help them prepare tax returns. He enquired if such firms could continue to operate with passage of the Members' Bill. He was also concerned whether the proposed amendments in the Members' Bill would breach the Competition Ordinance (Cap. 619), as qualified accountants in other jurisdictions could not use the term "professional accountant" in carrying out business in Hong Kong unless they were members of HKICPA.

5. Mr Kenneth LEUNG clarified that his Members' Bill aimed to tighten the usage of the term "Certified Public Accountant" so that companies could not use names like "會計師事務所" with an attempt to mislead the public to believe that they were practice units qualified to provide professional accounting service under PAO. He stressed that there was no intention to prohibit small consulting firms from providing accounting services. Such firms could continue with their business and use their current names if the names would not reasonably cause the public to believe that the firms were practice units qualified to provide professional auditing service under PAO. Mr LEUNG added that under PAO, a certified public accountant must be a member of HKICPA. He took note of Mr Andrew LEUNG's views and said that he would seek the views of the Competition Commission on his bill.

6. Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)⁴ said that section 42 of PAO aimed to prohibit an unqualified entity to use in its name certain specified descriptions which could cause a person to believe that it was a practice unit registered under the PAO. A Members' Bill (i.e. the Professional Accountants (Amendment) Bill 2013) was enacted in 2013 to tighten the relevant requirements. The intention of the current proposed Members' Bill was similar to that of the Members' Bill in 2013. The Administration would study the proposed Members' Bill when available which would need to go through the requisite procedures.

7. In response to Mr Andrew LEUNG's enquiry, Mr Kenneth LEUNG and the Admission Director, Hong Kong Institute of Certified Public Accountants advised that the restrictions to be imposed by the Members' Bill would apply to an entity not being a member of or a practice unit registered with HKICPA. Such an entity could be an individual, a partnership, or a company.

Conclusion

8. The Chairman informed members that it was anticipated that the Members' Bill would be introduced into LegCo in the 2016-2017 legislative session.

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