

香港特別行政區政府
商務及經濟發展局
工商及旅遊科



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《競爭(營業額)規例》(L/N. 38 of 2015)

感謝閣下於二零一五年三月十日的來信，本局的回覆載於下列各段。

參考《香港會計準則》和海外的競爭法

2. 在制訂《競爭(營業額)規例》(“《規例》”)時，政府參考了《香港會計準則》和海外的競爭法。具體而言，《香港會計準則》第18號關於收入、英國在其競爭條例下有關釐定營業額的規例、和新加坡“Competition (Financial Penalties) Order 2007”尤其貼題。現提供這些文件的摘錄(只備英文版)，載於附件。

為“信貸機構”、“金融機構”及“保險業務實體”釐定營業額

3. 就《競爭條例》(“《條例》”)而言，營業額指業務實體的“總收入”，而《規例》進一步釐清總收入是該業務實體從其日常活動所得的款額，使《條例》下營業額的概念貼近《香港會計準則》第18號所訂定計算實體從其日常活動所得的收入適用的會計準則。我們注意到《香港會計準則》第18號就提供服務所產生的收入作出會計指引，包括一系列示例說明各種服務的收入(包括但不限於保險及金融服務)，應如何確認為收入。《香港會計準則》第18號應已為各服務行業的業務實體提供清晰而全面的指引。有見及此，我們不認為有需要像英國的做法一樣在《規例》中為保險及金融服務業另行訂定條文。

日常活動

4. “日常活動”是會計專業界熟識的概念，並普遍應用於審計帳目。《香港會計準則》第18號在提到企業由日常活動產生的收入時是指從銷售商品、提供服務及他人使用企業的資產而產生的利息、使用費和股息。其他經濟利益的流入，例如投資者的投資、代理人代供應商收取的金額等，不屬於由企業日常活動產生的收入。“Ordinary activities”(日常活動)也是外地就競爭法釐訂營業額時的常用詞，並且沒有為此詞另行定義。考慮到上述各點，我們認為沒有需要在《規例》中為“日常活動”作出定義。

商務及經濟發展局局長

(許澤森



代行)

二零一五年三月十三日

**Relevant Extract of Hong Kong Accounting Standard
and overseas competition law**

Extract from Hong Kong Accounting Standard 18 – Revenue

- “1 This Standard shall be applied in accounting for revenue arising from the following transactions and events:
- (a) the sale of goods;
 - (b) the rendering of services; and
 - (c) the use by others of entity assets yielding interest, royalties and dividends.”
- “7 The following terms are used in this Standard with the meanings specified:
- Revenue* is the gross inflow of economic benefits during the period arising in the course of the ordinary activities of an entity when those inflows result in increase in equity, other than increase relating to contributions from equity participants. ...”
- “8 Revenue includes only the gross inflows of economic benefits received and receivable by the entity on its own account. Amounts collected on behalf of third parties such as sales taxes, goods and services taxes and value added taxes are not economic benefits which flow to the entity and do not result in increases in equity. Therefore, they are excluded from revenue. Similarly, in an agency relationship, the gross inflows of economic benefits include amounts collected on behalf of the principal and which do not result in increases in equity for the entity. The amounts collected on behalf of the principal are not revenue. Instead, revenue is the amount of commission.”

Extract from the UK's Competition Act 1998 (Determination of Turnover for Penalties) Order 2000

Schedule – Applicable turnover

General

“3. The applicable turnover of an undertaking, other than a credit institution, financial institution, insurance undertaking, or an association of undertakings, shall be limited to the amounts derived by the undertaking from the sale of products and the provision of services falling within the undertaking's ordinary activities to undertakings or consumers in the United Kingdom after deduction of sales rebates, value added tax and other taxes directly related to turnover.

4. Where an undertaking consists of two or more undertakings that each prepare accounts then the applicable turnover shall be calculated by adding together the respective applicable turnover of each, save that no account shall be taken of any turnover resulting from the sale of products or the provision of services between them.”

Turnover of associations of undertakings

“7. The turnover of an association of undertakings shall be the aggregate applicable turnover of the undertakings that are members of the association.”

Aid granted to undertakings

“8. Any aid granted by a public body to an undertaking which relates to one of the undertaking's ordinary activities shall be included in the calculation of turnover if the undertaking is itself the recipient of the aid and if the aid is directly linked to the sale of products or the provision of services by the undertaking and is therefore reflected in the price.”

Extract from the UK's Competition Act 1998 (Determination of Turnover for Penalties) Order 2004

Amendment to the 2000 Order

“2.—(1) The Competition Act 1998 (Determination of Turnover for Penalties) Order 2000(b) is amended as follows.

...

(4) In the Schedule—

- (a) in paragraph 1(1), the definition of “branch” shall cease to have effect;
- (b) in paragraph 3, the words “to undertakings or consumers in the United Kingdom” shall cease to have effect;

...”

Extract from Singapore’s Competition (Financial Penalties) Order 2007

The Schedule – Applicable Turnover

“1. Unless the circumstances otherwise require, the applicable turnover of an undertaking, other than an association of undertakings, shall be limited to the amounts derived by the undertaking from the sale of products and the provision of services falling within the undertaking’s ordinary activities in Singapore after deduction of sales rebates, goods and services tax and other taxes directly related to turnover.

2. Subject to paragraph 3, where an undertaking consists of 2 or more undertakings that each prepare accounts then the applicable turnover shall be calculated by adding together the respective applicable turnover of each, save that no account shall be taken of any turnover resulting from the sale of products or the provision of services between them.

3. The applicable turnover of an association of undertakings shall be the aggregate applicable turnover of the undertakings that are members of the association.”