

**Subcommittee on Four Subsidiary Legislation Related to Competition
Ordinance Gazetted on 18 February 2015**

**List of follow-up actions arising from the discussion
at the meeting on 16 March 2015**

The Administration was requested to provide the following information -

Competition (Turnover) Regulation ("C(T)R")

- (a) elaboration of the term "ordinary activities" further to the reference on its use as clarified by the Administration in paragraph 4 of LC Paper No. CB(4)640/14-15(02) and paragraph 2 of CB(4)640/14-15(03), such as -
 - (i) apart from the sale of goods and/or the rendering of services, whether transactions of properties and foreign currencies, and distribution of bonus or dividends are also regarded as "ordinary activities"; and
 - (ii) examples of non-ordinary activities;
- (b) way(s) to set out the principles/criteria on the classification of an activity as "ordinary" or not "ordinary" in the relevant provisions for public's reference –
 - (i) in respect of the Administration's reference to Hong Kong Accounting Standard 18 ("HKAS 18") in the interpretation of the term "ordinary activities", clarification on its legal status and whether it is feasible to draw a clear reference to HKAS 18 in the provisions having regard to local and overseas legislation/practices;
 - (ii) consider if the term "ordinary activities" can be more clearly defined in C(T)R;
 - (iii) given that the Competition Act 1998 (Determination of Turnover for Penalties) Order 2000 of the United Kingdom ("UK") ("the UK Order 2000") provided that "[t]he provisions of this Schedule shall be interpreted in accordance with generally accepted accounting principles and practices"¹, whether the Administration would consider modeling the UK practice and make similar express provisions in C(T)R;

¹ Section 2 of the UK Order 2000. See website: <http://www.legislation.gov.uk/uksi/2000/309/made>

- (iv) noting the Administration's advice that it has communicated with the Competition Commission when making C(T)R, whether any guidelines will be issued by the Competition Commission under the Competition Ordinance (Cap. 619) for the purpose of determining the turnover of an undertaking and if so, under which section of Cap. 619;
- (c) given that UK has made specific provisions in the UK Order 2000 on the determination of turnover for "credit institutions", "financial institutions" and "insurance undertakings", whether Hong Kong should also have similar provisions;
- (d) given that turnover is a measurement for determining the cap on pecuniary penalties under section 93 of Cap. 619, whether the amounts derived from the local sale of goods exporting to overseas should form part of the turnover;
- (e) noting that "sales rebates" and "taxes directly related to the revenues" will be deducted from the amounts derived by the undertaking in determining the turnover of an undertaking for the purposes of section 93 or sections 5 and 6 of Schedule 1 to Cap. 619, whether and if yes, how their scope of coverage would be set out in detail in C(T)R; and
- (f) whether the "amounts" referred to in section 2(1) and (2) of C(T)R include both monetary and non-monetary rewards.

Council Business Division 4
Legislative Council Secretariat
20 March 2015