

立法會
Legislative Council

LC Paper No. CB(1)48/18-19
(These minutes have been seen
by the Administration)

Ref : CB1/BC/4/17

Bills Committee on Financial Reporting Council (Amendment) Bill 2018

**Minutes of the fifth meeting on
Tuesday, 3 July 2018, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, GBS, JP (Chairman)
Hon Kenneth LEUNG (Deputy Chairman)
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Kin-por, GBS, JP
Hon Charles Peter MOK, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon CHAN Chun-ying, JP
Hon Kenneth LAU Ip-keung, BBS, MH, JP

Members absent : Hon James TO Kun-sun
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon WU Chi-wai, MH
Hon Dennis KWOK Wing-hang
Hon CHEUNG Kwok-kwan, JP

Public officers attending : Ms NG Ching-ching, Winnie, JP
Deputy Secretary for Financial Services and the
Treasury (Financial Services)³

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

Mr CHAN Fong-ming
Assistant Secretary for Financial Services and the
Treasury (Financial Services)(4)1

Ms CHAN Ka-man, Carmen
Senior Government Counsel
Department of Justice

Ms CHEUNG Mee-bo, Mabel
Senior Assistant Law Draftsman (LP)
Department of Justice

Attendance by invitation : Mr Paul F WINKELMANN
Chief Executive Officer
Financial Reporting Council

Ms Florence WONG
Senior Director (Investigation & Compliance)
Financial Reporting Council

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

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Mr Hugo CHIU
Senior Council Secretary (1)4

Ms Sharon CHAN
Legislative Assistant (1)4

Action

I Confirmation of minutes

(LC Paper No. CB(1)1159/17-18 — Minutes of the meeting on
20 March 2018

Action

LC Paper No. CB(1)1160/17-18 — Minutes of the meeting on 10 April 2018)

The minutes of the meetings held on 20 March 2018 and 10 April 2018 were confirmed.

II Meeting with the Administration

Matters arising from the previous meeting

(LC Paper No. CB(1)1190/17-18(01) — List of follow-up actions arising from the discussion at the meeting on 5 June 2018

LC Paper No. CB(1)1190/17-18(02) — Administration's response to issues raised at the meeting on 5 June 2018

LC Paper No. CB(1)1190/17-18(03) — Summary of views of submissions and the Administration's response)

Clause-by-clause examination of the Bill

(LC Paper No. CB(3)287/17-18 — The Bill

File Ref: ACCT/2/1/2C — Legislative Council Brief

LC Paper No. LS25/17-18 — Legal Service Division Report

LC Paper No. CB(1)591/17-18(01) — Marked-up copy of the Financial Reporting Council (Amendment) Bill 2018 prepared by the Legal Service Division (Restricted to members only)

LC Paper No. CB(1)783/17-18(01) — Letter dated 19 March 2018 from the Legal Service Division to the Administration

Action

LC Paper No. CB(1)783/17-18(02) — Administration's response to the letter dated 19 March 2018 from the Legal Service Division

LC Paper No. CB(1)590/17-18(01) — Background brief prepared by the Legislative Council Secretariat)

Discussion

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

Recognition of public interest entities auditors

3. The Administration was requested to provide, for the past five years, the respective numbers of overseas auditors approved by the Hong Kong Exchanges and Clearing Limited or the Securities and Futures Commission ("SFC") to undertake engagements for public interest entities ("PIEs").

Offence provisions in the Bill

4. The Administration was requested to provide a summary of provisions in the Bill the contravention of which would be subject to criminal sanctions.

Registration and renewal of public interest entities auditors

5. Under the proposed section 20P of the Financial Reporting Council Ordinance (Cap. 588) ("FRCO"), in considering an application for registration as a registered PIE auditor or renewal of the registration, the Hong Kong Institute of Certified Public Accountants ("HKICPA") might have regard to any information in its possession (whether or not provided by the applicant). Further, the applicant might not know that HKICPA had such information. However, the Bill did not provide the applicant concerned with an opportunity of being heard before HKICPA refused the application in cases where HKICPA was prepared to reject the application based on such information. As explained by the Administration, the provision was drafted having regard to the existing arrangements adopted by HKICPA. The Administration was requested to provide information on HKICPA's relevant arrangements and whether and how such arrangement would be adopted under the regulatory regime proposed under the Bill.

Action

Notification on the investigation of public interest entities auditors

6. The amended section 24 of FRCO provided that the Financial Reporting Council ("FRC") must inform specified enforcement agencies (including the Hong Kong Monetary Authority ("HKMA"), SFC, the Insurance Authority ("IA") and the Mandatory Provident Fund Schemes Authority ("MPFA")) as appropriate of its investigations in respect of PIE auditors. The Administration was requested to explain:

- (a) why only HKMA, SFC, IA and MPFA were specified as enforcement agencies in the provision;
- (b) FRC's current arrangements regarding notification to enforcement agencies when it conducted investigation on auditors (e.g. by issuing standardized written notice), and whether such arrangements would be changed after passage of the Bill; and
- (c) the respective legislation governing the operation of HKMA, SFC, IA and MPFA which: (i) enabled them to receive FRC's information on investigation of PIE auditors, (ii) restricted their use of the information received, and (iii) specified their liabilities for misusing the information.

(Post meeting note: The Administration's written response was issued to members vide LC Paper No. CB(1)98/18-19(02) on 26 October 2018.)

III Any other business

Date of next meeting

7. The Chairman remarked that the next meeting would be held in late September or early October 2018, and he would work out the schedule of meetings with the Clerk and informed members accordingly.

(Post meeting note: The next two meetings were scheduled for 29 October 2018 at 2:30 pm, and 19 November 2018 at 10:45 am. Members were informed about the arrangement vide LC Paper No. CB(1)1438/17-18 issued on 8 October 2018.)

Action

8. There being no other business, the meeting ended at 4:24 pm.

Council Business Division 1
Legislative Council Secretariat
18 October 2018

**Proceedings of the fifth meeting of
the Bills Committee on Financial Reporting Council (Amendment) Bill 2018
on Tuesday, 3 July 2018, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker	Subject(s)	Action Required
Agenda item I — Confirmation of minutes			
000546 – 000630	Chairman	Confirmation of minutes	
Agenda item II — Meeting with the Administration			
000631 – 001306	Chairman Administration	Briefing by the Administration on (a) its response to issues raised at the meeting on 5 June 2018; and (b) the summary of views of submissions and the Administration's response [LC Paper Nos. CB(1)1190/17-18(02) and (03) respectively]	
001307 – 001727	Chairman Mr CHAN Chun-ying Administration	<p>Mr CHAN's enquiries and views as follows:</p> <p>(a) the principles which the Financial Reporting Council ("FRC") would adopt in determining the level of pecuniary penalty to be imposed on misconduct committed by auditors of public interest entities ("PIE auditors"), and how FRC could ensure that the penalty imposed would not put a firm or an individual in financial jeopardy; and</p> <p>(b) whether the Administration would consider specifying in the Financial Reporting Council (Amendment) Bill 2018 ("the Bill") the factors to be considered by FRC when determining the level of pecuniary penalty.</p> <p>The Administration responded that:</p> <p>(a) the Bill included provisions requiring FRC to issue guidelines on how to exercise its power in imposing pecuniary penalty, and FRC must have regard to such guidelines when deciding whether to impose</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>pecuniary penalty and the amount to be imposed. As set out in the written response provided on 6 April 2018 (Annex B of LC Paper No. CB(1)771/17-18(02)), FRC would include in the guidelines the factors to be considered, including the nature and seriousness of the misconduct, the financial resources of a firm/an individual, and that the penalty should not have the likely effect of putting a firm/an individual in financial jeopardy;</p> <p>(b) it would not be appropriate to set out in the Bill the factors to be considered by FRC lest compromising the operational flexibility of FRC; and</p> <p>(c) a review and appeal mechanism was in place under the new regulatory regime for reviewing FRC's disciplinary decisions.</p>	
001728 – 003224	Chairman Deputy Chairman Administration Financial Reporting Council ("FRC")	<p>On the estimated annual operating expenses of the post-reform FRC (paragraph 3 of LC Paper No. CB(1)1190/17-18(02)), the Deputy Chairman's views and enquiries as follows:</p> <p>(a) the estimated expenses for expenditure items 5 to 7 and 9 were on the high side, and the Administration should elaborate on the details of such expenditure items;</p> <p>(b) the expenses for secretarial support of the post-reform FRC and professional indemnity insurance for FRC's staff; and</p> <p>(c) whether the post-reform FRC would consider outsourcing its legal and professional services.</p> <p>The Administration and FRC responded as follows:</p> <p>(a) expenditure item 5 covered a number of FRC's duties including overseeing the Hong Kong Institute of Certified Public Accountants' ("HKICPA") regulatory</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>functions in respect of PIE auditors, recognizing overseas PIE auditors, and liaison with overseas auditor regulators;</p> <p>(b) the administration cost of the post-reform FRC (i.e. expenditure item 6) was higher than that of the existing regime as the manpower of the post-reform FRC would be increased ;</p> <p>(c) currently FRC had four secretaries. The post-reform FRC would determine the number of secretaries having regard to the prevailing circumstances;</p> <p>(d) the post-reform FRC might outsource its legal and professional services; and</p> <p>(e) the Bill had included a number of measures for monitoring the expenditure of FRC including subjecting FRC's annual budget to the approval of the Financial Secretary, requiring FRC's financial statements to be audited by the Director of Audit and to be tabled before the Legislative Council. There were also provisions in the Bill requiring FRC to review the rates of levies with a view to reducing the levies. The relevant review would be triggered when FRC's reserve (after deducting depreciation and all provisions) was more than twice its operating expenses for the financial year and it had no outstanding debt.</p> <p><u>Recognition of public interest entities auditors</u></p> <p>At the Deputy Chairman's request, the Administration was required to provide, for the past five years, the respective numbers of overseas auditors approved by the Hong Kong Exchanges and Clearing Limited ("HKEX") or the Securities and Futures Commission ("SFC") to undertake engagements for PIEs.</p>	<p>The Administration to take action as per paragraph 3 of the minutes</p>

Time Marker	Speaker	Subject(s)	Action Required
Clause-by-clause examination of the Bill			
003225 – 004251	Chairman Administration Assistant Legal Adviser 10 ("ALA10") Deputy Chairman	<p>Financial Reporting Council (Amendment) Bill 2018</p> <p>Part 2</p> <p>Amendments to Financial Reporting Council Ordinance (Cap. 588)</p> <p><u>Clause 13 – Section 11 amended (delegations)</u></p> <p><u>Clause 80 – Schedules 3A and 3B added</u></p> <p><i>Schedule 3A Non-delegable Functions of FRC</i></p> <p><u>Clause 14 – Section 12 amended (assistance, etc. to specified authorities under certain circumstances)</u></p> <p>ALA10 highlighted the issue of reasonable excuse and use of self-incriminating evidence which she raised in her letter dated 19 March 2018 to the Administration. The Administration re-iterated its responses (i.e. paragraphs 8 and 9 of LC Paper No. CB(1)783/17-18(01) and paragraphs 8 to 10 of LC Paper No. CB(1)783/17-18(02)).</p> <p>In response to the Deputy Chairman's enquiry, the Administration advised that the sanctions for offences relating to FRC's inspections and investigations were set out respectively in the proposed new section 21F and the amended section 31 of the Financial Reporting Council Ordinance (Cap. 588) ("FRCO").</p>	
004252 – 004730	Chairman Administration Deputy Chairman	<p><u>Clause 15 – Section 13 amended (Council may issue guidelines)</u></p> <p><u>Clause 16 – Section 14 amended (directions of Chief Executive)</u></p> <p><u>Clause 17 – Section 15 amended (Council to furnish information)</u></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p><u>Clause 18 – Section 16 amended (exemption from taxation)</u></p> <p><u>Clause 19 – Section 17 substituted</u></p> <p><i>17. Financial years and estimates</i></p> <p><u>Clause 20 – Section 18 amended (accounts)</u></p> <p><u>Clause 21 – Section 19 amended (Director of Audit as auditor)</u></p> <p><u>Clause 22 – Section 20 amended (reports and statement to be laid before Legislative Council)</u></p> <p><u>Clause 23 – Part 3 added</u></p> <p>Part 3</p> <p>Registration and Recognition of PIE Auditors</p> <p><i>Division 1—Interpretation</i></p> <p><i>20A. Interpretation</i></p> <p>In response to the Deputy Chairman's enquiry, the Administration advised that under the proposed new section 20H of FRCO, the quality control system responsible person ("QCSRP") of a registered PIE auditor should either be the chief executive officer ("CEO") or a member of the managing board of partners of the registered PIE auditor. Thus, the CEO and QCSRP of a registered PIE auditor could be the same person.</p>	
004731 – 005000	Chairman Administration Deputy Chairman	<p>Part 3</p> <p><i>Division 2 — Registered PIE Auditors</i></p> <p><i>Subdivision 1 — Prohibitions and Offences</i></p> <p><i>20B. Prohibition on undertaking and carrying out PIE engagement</i></p> <p><i>20C. Prohibition on holding out as registered PIE auditor</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>20D. <i>Prohibition on carrying out activity as engagement partner</i></p> <p>20E. <i>Prohibition on carrying out activity as engagement quality control reviewer</i></p> <p>20F. <i>Offences</i></p> <p><u>Offence provisions in the Bill</u></p> <p>At the Deputy Chairman's request, the Administration agreed to provide a summary of provisions in the Bill the contravention of which would be subject to criminal sanctions.</p>	<p>The Administration to take action as per paragraph 4 of the minutes</p>
005001 – 005610	Chairman Administration Deputy Chairman ALA10	<p>Part 3</p> <p><i>Division 2</i></p> <p><i>Subdivision 2 — Registration</i></p> <p>20G. <i>Application</i></p> <p>20H. <i>Decision on application</i></p> <p>20I. <i>Notification of decision</i></p> <p>20J. <i>Validity of registration</i></p> <p><i>Subdivision 3 — Renewal</i></p> <p>20K. <i>Application</i></p> <p>20L. <i>Decision on application</i></p> <p>20M. <i>Notification of decision</i></p> <p>20N. <i>Current registration remains in force until decision on renewal takes effect</i></p> <p>20O. <i>Validity of renewed registration</i></p> <p>In response to the Deputy Chairman's enquiry, the Administration confirmed that the registration of a registered PIE auditor who applied for renewal of the registration would</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>remain in force until HKICPA's decision on the renewal application took effect.</p> <p>ALA10 highlighted the issue of renewal of registration which she raised in her letter dated 19 March 2018 to the Administration. The Administration re-iterated its responses. (paragraph 3 of LC Paper No. CB(1)783/17-18(01) and paragraph 3 of LC Paper No. CB(1)783/17-18(02))</p>	
005611 – 010311	Chairman Administration ALA10 Deputy Chairman	<p>Part 3</p> <p><i>Division 2 — Registered PIE Auditors</i></p> <p><i>Subdivision 4 — Supplementary Registration and Renewal Provisions</i></p> <p><i>20P. Applicant to provide information</i></p> <p><i>20Q. Determination of fit and proper</i></p> <p><i>20R. Offences to provide false or misleading information</i></p> <p><u>Registration and renewal of public interest entities auditors</u></p> <p>Under the proposed section 20P of FRCO, in considering an application for registration as a registered PIE auditor or renewal of the registration, HKICPA might have regard to any information in its possession (whether or not provided by the applicant). ALA10 remarked that the Bill did not provide the applicant concerned with an opportunity of being heard before HKICPA refused the application in cases where HKICPA was prepared to refuse an application based on information which was not provided by the applicant concerned and the applicant did not know that HKICPA had such information.</p> <p>The Administration responded that the provision was drafted having regard to the existing arrangements adopted by HKICPA.</p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Administration was required to provide information on HKICPA's relevant arrangements.</p> <p>The Chairman considered that the applicant concerned should be given an opportunity of being heard before the application was rejected by HKICPA.</p> <p>In response to the Deputy Chairman's enquiry, the Administration advised that HKICPA did not have strong views on the drafting of the proposed new Part 3 of FRCO.</p>	<p>The Administration to take action as per paragraph 5 of the minutes</p>
010312 – 010757	Chairman Administration Deputy Chairman	<p>Part 3</p> <p><i>Division 2 — Registered PIE Auditors</i></p> <p><i>Subdivision 5 — Registration Conditions, Revocation and Suspension</i></p> <p>20S. <i>HKICPA Council may impose or amend conditions</i></p> <p>20T. <i>Registration may be revoked or suspended on non-disciplinary grounds</i></p> <p><i>Subdivision 6 — Obligations of Registered PIE Auditors</i></p> <p>20U. <i>Registered PIE auditor must have registered responsible persons</i></p> <p>20V. <i>Registered PIE auditor must not authorize unregistered persons to carry out activity</i></p> <p>20W. <i>Registered PIE auditor must provide sufficient resources etc.</i></p> <p>20X. <i>Failure to meet certain requirements after registration</i></p> <p>20Y. <i>Additional registered responsible persons</i></p> <p>20Z. <i>Registered PIE auditor to notify changes in particulars</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p><i>20ZA. Registered PIE auditor to notify changes in registered responsible persons, partners and directors</i></p> <p>The Deputy Chairman sought details of the term "activity" in the proposed new section 20V of FRCO. The Administration advised that the term referred to those activities expected to be performed by the engagement partner, engagement quality control reviewer and QCSR of a registered PIE auditor under the new regime. The proposed new section 20V of FRCO prohibited a registered PIE auditor from authorizing a person who was not a registered responsible person to carry out such activities.</p> <p>The Deputy Chairman enquired whether the partner of a small registered PIE auditor could, under certain scenarios (e.g. suffering from illness for a long time), authorize another registered PIE auditor to carry out such activities on his/her behalf.</p> <p>The Administration advised that in the case raised by the Deputy Chairman, the PIE auditor concerned could authorize another registered PIE auditor to carry out those activities.</p>	
010758 – 011512	Chairman Administration ALA10	<p>Part 3</p> <p><i>Division 3 — Recognized PIE Auditors</i></p> <p><i>Subdivision 1 — Prohibitions and Offences</i></p> <p><i>20ZB. Prohibition on undertaking and carrying out PIE engagement</i></p> <p><i>20ZC. Prohibition on holding out as recognized PIE auditor</i></p> <p><i>20ZD. Offences</i></p> <p><i>Subdivision 2 — Recognition</i></p> <p><i>20ZE. Application</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>ALA10 highlighted the issue of undertaking and carrying out PIE engagement by an overseas auditor which she had raised in her letter dated 19 March 2018 to the Administration. The Administration re-iterated its responses accordingly. (paragraphs 4 and 5 of LC Paper No. CB(1)783/17-18(01) and paragraphs 4 and 5 of LC Paper No. CB(1)783/17-18(02))</p>	
011513 – 011921	Chairman Administration Deputy Chairman	<p><i>20ZF. Decision on application</i></p> <p><i>20ZG. Notification of decision</i></p> <p><i>20ZH. Validity of approval-in-principle</i></p> <p><i>20ZI. Overseas auditors recognized as PIE auditors on undertaking PIE engagements</i></p> <p><i>20ZJ. Validity of recognition</i></p> <p><i>Subdivision 3 — Renewal</i></p> <p><i>20ZK. Application</i></p> <p><i>20ZL. Decision on application</i></p> <p><i>20ZM. Notification of decision</i></p> <p><i>20ZN. Current recognition remains in force until decision on renewal takes effect</i></p> <p><i>20ZO. Validity of renewed recognition</i></p> <p><i>Subdivision 4 — Supplementary Recognition and Renewal Provisions</i></p> <p><i>20ZP. Applicant to provide information</i></p> <p><i>20ZQ. Offences to provide false or misleading information</i></p> <p><i>Subdivision 5 — Recognition Conditions, Revocation and Suspension</i></p> <p><i>20ZR. FRC may impose or amend conditions</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p><i>20ZS. Recognition may be revoked or suspended on non-disciplinary grounds</i></p> <p><i>Subdivision 6 — Miscellaneous</i></p> <p><i>20ZT. Recognition of Mainland auditors endorsed in accordance with mutual recognition agreement</i></p> <p>Regarding the term "mutual recognition agreement" ("MRA") in the proposed new section 20ZT of FRCO, the Deputy Chairman enquired about:</p> <p>(a) which authorities in Hong Kong and the Mainland were/would be the signatory parties to an existing/new MRA; and</p> <p>(b) the number of existing MRAs concluded between Hong Kong and the Mainland, and the anticipated number of new MRAs to be concluded.</p> <p>The Administration advised that currently there was one MRA covering 11 Mainland auditors.</p>	
011922 – 012917	Chairman Administration ALA10 Deputy Chairman	<p>Part 3</p> <p><i>Division 3</i></p> <p><i>Subdivision 6 — Miscellaneous</i></p> <p><i>20ZU. Overseas entity to notify termination of appointment of recognized PIE auditors</i></p> <p><i>20ZV. Failure to meet certain requirements after recognition</i></p> <p><i>20ZW. Recognized PIE auditor to notify changes in particulars</i></p> <p><i>Division 4 — Register of PIE Auditors</i></p> <p><i>20ZX. HKICPA Registrar to establish and maintain register of PIE auditors</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p><i>20ZY. Inspection of PIE auditors register etc.</i></p> <p>ALA10 highlighted the issue of duty for a recognized Mainland auditor to provide information to HKICPA Registrar which she had raised in the letter dated 19 March 2018 to the Administration. The Administration re-iterated its responses. (paragraph 6 of LC Paper No. CB(1)783/17-18(01) and paragraph 6 of LC Paper No. CB(1)783/17-18(02))</p> <p>In response to the Chairman's enquiry, the Administration advised that the 11 Mainland auditors covered by the existing MRA would be recognized by FRC as recognized PIE auditors automatically upon the commencement of the new regulatory regime.</p> <p>While HKICPA would continue to be one of the signatory parties to the existing MRA under the new regulatory regime, the Deputy Chairman asked if FRC could conclude with the Mainland a new MRA which excluded HKICPA.</p> <p>The Administration responded as follows:</p> <p>(a) the existing MRA was signed between five signatory parties from Hong Kong (i.e. the Financial Services and the Treasury Bureau, SFC, HKEX, FRC and HKICPA) and the Mainland authorities;</p> <p>(b) "MRA" was defined in the proposed new section 20ZT(8) of FRCO, and its scope was limited; and</p> <p>(c) one of the objectives of the Bill was to maintain the existing recognition arrangements with the Mainland. Any substantial changes to the existing MRA must be agreed by the five signatories from Hong Kong. It would also be unlikely for FRC to conclude with the Mainland a new MRA significantly different from the existing one.</p>	

Time Marker	Speaker	Subject(s)	Action Required
012918 – 013145	Chairman Administration Deputy Chairman	<p><u>Clause 24 – Headings before section 21 substituted</u></p> <p>Part 3A</p> <p>Inspection and Investigation in relation to PIE Auditors, Non-PIE Auditors, etc.</p> <p><i>Division 1 — Preliminary</i></p> <p><u>Clause 25 – Section 21 substituted</u></p> <p><i>21. Interpretation</i></p> <p>The Deputy Chairman asked why the heading of the proposed Part 3A of FRCO contained the phrase "Non-PIE Auditors".</p> <p>The Administration advised that under the new regulatory regime, the investigatory power of FRC would, same as the existing arrangement, cover both PIE auditors and non-PIE auditors.</p>	
013146 – 013647	Administration Deputy Chairman	<p><u>Clause 26 – Part 3A, Division 2 added</u></p> <p><i>Division 2 — Inspection in relation to PIE Auditors</i></p> <p><i>Subdivision 1 — Conduct of Inspection</i></p> <p><i>21A. FRC may appoint inspectors</i></p> <p><i>21B. FRC may direct inspection to be carried out for ascertaining compliance</i></p> <p><i>21C. Powers of inspector</i></p> <p><i>21D. Inspector may require answer to be verified by statutory declaration</i></p> <p><i>21E. FRC may require information for determining frequency of inspection etc.</i></p> <p><i>21F. Offences relating to sections 21C and 21D</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p><i>Subdivision 2 — Inspection Report</i></p> <p><i>21G. Inspection report</i></p> <p><i>21H. FRC's power to take follow-up action</i></p> <p>The Administration remarked that it would introduce an amendment to the proposed section new 21A of FRCO to the effect that an overseas accountant could also be appointed by FRC as an inspector.</p> <p>In response to the Deputy Chairman's enquiry, the Administration confirmed that the inspections and investigations of FRC would be carried out by different staff members.</p>	
013648 – 014606	Chairman Administration Deputy Chairman FRC	<p><u>Clause 27 – Part 3A, Division 3 and Subdivision 1 headings added</u></p> <p>Part 3A</p> <p><i>Division 3 — Investigation in relation to PIE Auditors, Non-PIE Auditors, etc.</i></p> <p><i>Subdivision 1 — Audit Investigation Board and Investigators</i></p> <p><u>Clause 28 – Section 22 amended (Audit Investigation Board)</u></p> <p><u>Clause 29 – Section 22A added</u></p> <p><i>22A. FRC may appoint investigators</i></p> <p><u>Clause 30 – Part 3A, Division 3, Subdivision 2 heading added</u></p> <p><i>Subdivision 2 — Conduct of Investigation</i></p> <p><u>Clause 31 – Section 23 substituted</u></p> <p><i>23. FRC may direct investigation to be carried out in relation to PIE auditors etc.</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p><u>Clause 32 – Sections 23A and 23B added</u></p> <p>23A. <i>FRC may direct investigation to be carried out in relation to non-PIE auditors</i></p> <p>23B. <i>FRC may direct investigation to be suspended</i></p> <p><u>Clause 33 – Section 24 amended (Council to notify certain bodies of powers under Divisions 2 and 3 being exercisable)</u></p> <p><u>Notification on the investigation of public interest entities auditors</u></p> <p>The amended section 24 of FRCO provided that FRC must inform specified enforcement agencies (including the Hong Kong Monetary Authority ("HKMA"), SFC, the Insurance Authority ("IA") and the Mandatory Provident Fund Schemes Authority ("MPFA")) as appropriate of its investigations in respect of PIE auditors. At the Deputy Chairman's request, the Administration was required to explain:</p> <p>(a) why only HKMA, SFC, IA and MPFA were specified as enforcement agencies in the provision;</p> <p>(b) FRC's current arrangements regarding notification to enforcement agencies when it conducted investigation on auditors (e.g. by issuing standardized written notice), and whether such arrangements would be changed after passage of the Bill; and</p> <p>(c) the respective legislation governing the operation of HKMA, SFC, IA and MPFA which: (i) enabled them to receive FRC's information on investigation of PIE auditors, (ii) restricted their use of the information received, and (iii) specified their liabilities for misusing the information</p>	<p>The Administration to take action as per paragraph 6 of the minutes</p>

Time Marker	Speaker	Subject(s)	Action Required
		<p>The Administration and FRC advised that:</p> <p>(a) the proposed amendments to section 24 of FRCO sought to enhance FRC's cooperation with other enforcement agencies; and</p> <p>(b) FRC currently notified other enforcement agencies of its investigations through standardized letters, and would hold meetings with such agencies as necessary.</p> <p>The Deputy Chairman enquired why the Stock Exchange of Hong Kong ("SEHK") was not specified as one of the enforcement agencies, and whether SEHK would be informed of FRC's investigations on companies listed in the Exchange.</p> <p>FRC responded that:</p> <p>(a) HKMA, SFC, IA and MPFA were specified as enforcement agencies because they were financial regulators. SEHK was not a regulator and was hence excluded; and</p> <p>(b) if FRC initiated an investigation on a company listed in SEHK, SEHK would be aware of the investigation.</p>	
014607 – 015730	Chairman Administration Deputy Chairman	<p><u>Clause 34 – Heading before section 25 repealed</u></p> <p><u>Clause 35 – Sections 25 and 26 substituted</u></p> <p>25. <i>Powers of investigator</i></p> <p>26. <i>Investigator may require explanation etc. to be verified by statutory declaration</i></p> <p><u>Clause 36 – Sections 27 and 28 repealed</u></p> <p><u>Clause 37 – Heading before section 29 repealed</u></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p><u>Clause 38 – Section 29 amended (investigator to consult before imposing certain requirements under Division 2)</u></p> <p><u>Clause 39 – Section 30 amended (use of incriminating evidence in proceedings)</u></p> <p><u>Clause 40 – Section 31 amended (offences relating to requirements under Division 2)</u></p> <p><u>Clause 41 – Part 3A, Division 3, Subdivision 3 added</u></p> <p>Part 3A</p> <p><i>Division 3</i></p> <p><i>Subdivision 3 — Findings of Investigation</i></p> <p><i>31A. Investigation report</i></p> <p><i>31B. Action by FRC in relation to investigation</i></p> <p><i>31C. Costs and expenses of investigation</i></p> <p><u>Clause 42 – Part 3A, Division 4 heading added</u></p> <p><i>Division 4 — Supplementary Provisions Relating to Inspection and Investigation</i></p> <p><u>Clause 43 – Section 32 amended (Court of First Instance to inquire into failure to comply with requirements under Division 2)</u></p> <p><u>Clause 44 – Section 33 amended (inspection of records or documents seized, etc.)</u></p> <p><u>Clause 45 – Section 34 amended (magistrate's warrants)</u></p> <p><u>Clause 46 – Heading after section 34 repealed</u></p> <p><u>Clause 47 – Sections 35, 36 and 37 repealed</u></p> <p><u>Clause 48 – Parts 3B and 3C added</u></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<p>Part 3B</p> <p>Disciplinary Matters Regarding PIE Auditors and Registered Responsible Persons</p> <p><i>Division 1 — Misconduct</i></p> <p>37A. <i>Misconduct by PIE auditors</i></p> <p>37B. <i>Misconduct by registered responsible persons</i></p> <p>37C. <i>Whether act or omission likely to be prejudicial to interest of investing public etc.</i></p> <p><i>Division 2 — Sanctions</i></p> <p>37D. <i>Sanctions for misconduct by PIE auditors</i></p> <p>37E. <i>Sanctions for misconduct by registered responsible persons</i></p> <p>37F. <i>Other cases</i></p> <p>37G. <i>FRC to inform sanctions imposed</i></p> <p>37H. <i>Guidelines for exercise of power to impose pecuniary penalty</i></p> <p>In response to the Deputy Chairman's enquiry, the Administration confirmed that if a prosecution instituted against a person as a result of FRC's investigation did not result in a conviction, the person concerned would not be required to bear the costs and expenses of FRC's investigation.</p> <p>Part 3B</p> <p><i>Division 3 — Miscellaneous</i></p> <p>37I. <i>FRC's power to take action in place of or in addition to imposing sanctions with consent</i></p> <p>37J. <i>Pecuniary penalty order</i></p>	

Time Marker	Speaker	Subject(s)	Action Required
		<i>37K. Disclosure of sanctions etc.</i> <i>37L. FRC may have regard to any information or material when making decisions</i> Part 3C Reviews and Appeals Regarding Decisions on PIE Auditors etc. <i>Division 1 — Preliminary</i> <i>37M. Interpretation</i>	
Agenda item III — Any other business			
015731 – 015804	Chairman	Date of next meeting	

Council Business Division 1
Legislative Council Secretariat
18 October 2018