

立法會
Legislative Council

LC Paper No. CB(1)364/16-17
(These minutes have been seen
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Ref : CB1/PL/FA/1

Panel on Financial Affairs

Minutes of meeting
held on Tuesday, 15 November 2016 at 9:00 am
in Conference Room 1 of the Legislative Council Complex

Members present : Hon Christopher CHEUNG Wah-fung, SBS, JP
(Chairman)
Hon Kenneth LEUNG (Deputy Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, BBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK Wing-hang
Dr Hon Fernando CHEUNG Chiu-hung
Hon Martin LIAO Cheung-kong, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Alvin YEUNG

Hon Andrew WAN Siu-kin
Hon Jimmy NG Wing-ka, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon YUNG Hoi-yan
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon LUK Chung-hung
Hon Kenneth LAU Ip-keung, MH, JP
Hon Jeremy TAM Man-ho
Dr Hon YIU Chung-yim

Members absent : Hon LEUNG Yiu-chung
Hon WONG Kwok-kin, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon CHU Hoi-dick
Hon SHIU Ka-chun
Hon HUI Chi-fung
Hon LAU Kwok-fan, MH
Hon KWONG Chun-yu
Hon Nathan LAW Kwun-chung
Dr Hon LAU Siu-lai

Public officers attending : Agenda Item IV

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

Mr NG Wai Ho, Kenneth
Legal Counsel
Hong Kong Institute of Certified Public
Accountants

Agenda Item V

Mr Norman CHAN, GBS, JP
Chief Executive
Hong Kong Monetary Authority

Mr Eddie YUE, JP
Deputy Chief Executive (Monetary)
Hong Kong Monetary Authority

Mr Arthur YUEN, JP
Deputy Chief Executive (Banking)
Hong Kong Monetary Authority

Mr Howard LEE, JP
Senior Executive Director (Development)
Hong Kong Monetary Authority

Agenda Item VI

Mr James LAU
Under Secretary for Financial Services and the
Treasury

Mr Esmond LEE
Senior Advisor
Financial Services Development Council

Mr Andrew WU
Head of Secretariat
Financial Services Development Council

Agenda Item VII

Ms Carmen CHU, JP
Executive Director (Banking Conduct)
Hong Kong Monetary Authority

Ms Meena DATWANI, JP
Executive Director (Enforcement and AML)
Hong Kong Monetary Authority

Ms May TAN
Chairperson
The Hong Kong Association of Banks

Mr Colin POU
Senior Vice President
The Hong Kong Mortgage Corporation Limited

Agenda Item VIII

Mr Eddie CHEUNG
Deputy Secretary for Financial Services and the
Treasury (Financial Services) 2

Ms Joan HUNG
Principal Assistant Secretary for Financial Services
and the Treasury (Financial Services) Special
Duties

Mr Jimmy LEUNG
Senior Manager (Preparatory Team) for Financial
Services and the Treasury Bureau

Mr Tony CHAN
Acting Assistant Commissioner of Insurance
(Policy and Development)
Office of the Commissioner of Insurance

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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IV Briefing on the proposed Member's Bill to amend the Professional Accountants Ordinance

(LC Paper No. CB(1)78/16-17(02) — Background brief and the draft bill provided by Hon Kenneth LEUNG (English version only)

LC Paper No. CB(1)78/16-17(03) — Extract of minutes of meeting of Panel on Financial Affairs held on 6 June 2016)

Briefing on the Bill

6. At the invitation of the Chairman, Mr Kenneth LEUNG briefed members on the draft Professional Accountants (Amendment) Bill 2016 which he intended to introduce as a Member's 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 pointed out that he had presented the draft bill at the Panel meeting on 6 June 2016. A new amendment had been included in the draft bill to increase the fines for the offences under section 42(1) of PAO from level 4 to level 5, i.e. from \$10,001 - \$25,000 to \$25,001 - \$50,000. The proposed increase in pecuniary penalty was to reinforce the deterrent effect against the offences of using prohibited or misleading words or descriptions in a company name.

Discussion

7. Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)⁴ said that section 42 of the PAO has already prohibited, amongst other things, a company not being a corporate practice to use in its name certain written words or descriptions etc. which might reasonably cause any person to believe that it was a practice unit registered under PAO. LegCo passed a Member's Bill (i.e. the Professional Accountants (Amendment) Bill 2013) in 2013 to tighten the usage of words or descriptions in the company name. The purpose of the current proposed Member's Bill was similar to that of the 2013 Amendment Bill. The Administration would study the proposed Member's Bill when available.

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8. Director, Admission of Hong Kong Institute of Certified Public Accountants ("D/HKICPA") said that the Hong Kong Institute of Certified Public Accountants ("HKICPA") supported the spirit of the proposed Member's Bill, but considered that there was room for improvement in the content of the proposed draft bill. HKICPA was in discussion with members of its relevant committee to see how the draft bill could be enhanced, and upon approval by its Council, would relay its views on the draft bill to Mr Kenneth LEUNG for his consideration.

9. Mr Paul TSE enquired about the handling of cases by HKICPA and the Administration on non-registered firms using prohibited or misleading names in operating their business.

10. D/HKICPA responded that section 42 of PAO was enforced by the Police and complaints received by HKICPA were referred to the Police for handling. There were 16 successfully prosecuted cases relating to offences under section 42 of PAO from 2010 to 2015. The majority of these cases involved unlicensed practices holding themselves out in their company websites as eligible for providing audit services. Only one or two cases were related to the use of prohibited descriptions in the company name. As indicated by the Police, the difficulty in gathering evidence had adversely affected the instigation of prosecution against the alleged offenders. HKICPA believed that the proposed bill could facilitate enforcement by the Police.

11. Mr Paul TSE and Dr Junius HO were concerned that after passage of the proposed bill, small firms providing bookkeeping services might not continue their businesses. It was because most of them were not practice units registered with HKICPA but had been using words such as "專業會計" in their company names.

12. Mr Kenneth LEUNG stressed that there was no intention to prohibit small firms from providing accounting or bookkeeping services. He clarified that his Member's Bill aimed to tighten the usage of the term "Certified Public Accountant" such that unqualified companies/persons could not use names like "專業會計" in business names with an attempt to mislead the public to believe that they were persons or practice units qualified to provide professional accounting or auditing service under PAO. He added that he would seek the views of the Competition Commission on his bill.

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