

香港特別行政區政府
財經事務及庫務局
財經事務科

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FINANCIAL SERVICES BRANCH
FINANCIAL SERVICES AND
THE TREASURY BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

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By email (hytchiu@legco.gov.hk)

13 September 2021

Clerk to Bills Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Mr Hugo CHIU)

Dear Mr CHIU,

**Follow-up to the meeting of the Bills Committee on
Financial Reporting Council (Amendment) Bill 2021 on 7 September 2021**

I refer to your email dated 8 September 2021. The Administration's response is set out below.

2. Section 37H of the Financial Reporting Council Ordinance (Cap. 588) ("FRCO") stipulates that the Financial Reporting Council ("FRC") can only impose a pecuniary penalty under its disciplinary proceedings after it has published in the Gazette guidelines on how it exercises such pecuniary penalty power and has had regard to the guidelines. The Bills Committee requested us to consider, with reference to section 83(3) of the Insurance Ordinance (Cap. 41) ("IO") referred to by the Legal Adviser, the inclusion of an obligation on the FRC to consult relevant parties in formulating the said guidelines on pecuniary penalties.

3. Upon review of the said provision of the IO, we note that it requires the Insurance Authority ("IA") to consult the Monetary Authority on its guidelines relating to pecuniary penalties to be imposed on licensed insurance intermediaries under its disciplinary proceedings. As a licensed insurance intermediary which

is an authorised institution within the meaning of the Banking Ordinance (Cap. 155) is at the same time subject to the regulation of the Hong Kong Monetary Authority (“HKMA”), such consultation obligation is necessary to ensure coordination between the IA and the HKMA on the regulation of regulatees who are under the regulation of both regulators. Similar consultation arrangement is also in place for other financial regulatory regimes, including the Securities and Futures Ordinance (Cap. 571) and the Mandatory Provident Fund Schemes Ordinance (Cap. 485).

4. In the case of the FRCO , since the regulatees concerned in the proposed amended section 37H (i.e. practice units and certified public accountants) are not concurrently subject to the regulation of other financial regulators, we are of the view that it is not necessary to impose an obligation on the FRC to consult other financial regulators when formulating its guidelines on pecuniary penalty under its disciplinary proceedings. That said, following the practice under the public interest entities auditors regulatory regime, the FRC will engage with the profession and stakeholders to listen to their views when formulating the said guidelines. The FRC Board will have due regard to the guidelines when imposing pecuniary penalties. A regulatee who is dissatisfied with the FRC’s decision to impose pecuniary penalties under the disciplinary proceedings may also apply for a review of the decision by the statutory Review Tribunal.

Yours sincerely,



(Billy AU)

for Secretary for Financial Services
and the Treasury

c.c.
Department of Justice

(Attn: Ms Sandy HUNG
Mr Gary LI)