

Dr Billy Mak

Date of submission: 29th Dec, 2016

Question 1

1.1 Do you agree with the proposed amendment to raise the upper claimable limit to HK\$3,000,000? Please state your reasons.

Yes, I agree. Previous limit is too small. To consider the cost of litigation, claimable limit below that \$3,000,000 is not that cost effective.

Question 2

2.1 Do you agree that a single maximum claimable amount continues to be applicable for the banking and the securities industries? If not, why?

Yes.

Question 3

3.1 Do you agree to extend the limitation period for lodging Claims to 36 months? Why or why not?

I think that 3 years is sufficient and appropriate.

Question 4

4.1 Do you agree with the proposal to extend the service scope to cover Claims from SEs (as defined in paragraph 2.33 of this Consultation Paper)? Why or why not?

Agree, small business interest should be protected and just like individual.

4.2 Besides the proposed definition of SEs in paragraph 2.33 of this Consultation Paper, do you have any other suggestions to define the size of a small business?

Please provide elaborations on your suggestions.

Small business can be classified by the following criteria:

- a) Turnover
- b) Profit
- c) Number of employees

There is no preference for the cut off point but in principal the size of the company should not be too big and easily to afford litigation.

4.3 Do you agree that an FI qualifying as an SE could file a Claim as an EC against another FI? Please explain.

I don't agree. Normally FI has more resources and they can afford to pay the cost of the lawyers.

Question 5

5.1 Do you agree that the FDRC should deal with cases under current court proceedings without the claimant withdrawing the case from the Court? Why or why not?

Agree. To protect the interest of the public.

5.2 For PD31 cases, do you agree that the maximum claimable amount be set at an amount in tandem with the future monetary jurisdiction of the District Court? Please give your reasons.

Agree, to avoid discrepancy between District Court and FDRC.

5.3 Do you agree that parties to the mediation in PD31 cases at the FDRC can be legally represented as elaborated in paragraph 2.43 of this Consultation Paper? Please explain.

Agree, no particular reason.

Question 6

Do you agree that, subject to a prior mutual agreement between an FI and a claimant, the FDRC could consider handling disputes which exceed its certain amended Intake Criteria as specified in paragraph 3.1(a) and (b) of this Consultation Paper? Why or why not?

Agree.

Question 7

7.1 Do you agree that when there is a financial dispute between an EC and an FI, the FI may refer the financial dispute to the FDRC, subject to the consent of the EC? Why or why not?

Agree

7.2 Do you agree that when there is a Claim by an EC against an FI, the FI with a counterclaim may lodge the counterclaim to the FDRC, subject to the consent of the EC? Why or why not?

Agree. For those uneducated or less privileged EC, it will be easier to settle the dispute by FDRC and it can protect their interests.

7.3 Do you agree with the arrangement that the FI can pay for the mediation and/or arbitration fees for their customers if the FI so wishes? Why or why not?

Question 8

8.1 Do you agree that options of “mediation only” and “arbitration only” in addition to the original “mediation first, arbitration next” be offered to the parties with mutual agreement? Please state your reasons.

Agree. Both parties can have their choices.

8.2 Do you agree that such “mediation only” or “arbitration only” option should not be available for “normal” cases under the FDRS? Why or why not?

Disagree. People can decide their choices.

Question 9

Do you agree with the proposed revised fee scale for dispute resolution services of the FDRC? Please provide your comments and/or suggestions.

Agree.

Question 10

Do you agree that the FDRC could re-consider the rejected applications if they now fall within the amended Intake Criteria? Why or why not? Please give your reasons.

Agree.