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香港華人會計師公會

The Society of Chinese Accountants & Auditors

(在香港註冊成立之有限公司)

(Incorporated in Hong Kong as a company limited by guarantee)

15 January 2014

Mr Raphael Ding
Chief Executive and Registrar
Hong Kong Institute of Certified Public Accountants
27/F Wu Chung House
213 Queen's Road East
Wanchai, Hong Kong

Dear Raphael

Re: Regulatory framework for listed company audits

Member survey - Listed company auditor regulation reform proposals

In response to the Information Paper and Request for Comment on Regulatory Framework for Listed Company Audits (the "Information Paper") issued by Hong Kong Institute of Certified Public Accountants ("HKICPA") on 8 October 2013 and the Member Survey on Listed Company Auditor Regulation Reform Proposals issued by your office (the "HKICPA Survey"), we would like to submit our comments for your consideration.

The Society of Chinese Accountants and Auditors ("SCAA") is an incorporated body of professional accountants in Hong Kong established since 1913. Our members are practising accountants and representing a significant number of practising firms of accountants, most of which are small and medium sized, in Hong Kong. Our primary objectives include:

- to provide a professional development channel for all practising accountants in Hong Kong;
- to assist members to maintain high standards of professional conduct; and
- to provide services to its members and their members' staff, and to advance the theory and practice of accountancy.

As a long standing and member care organisation, we realise that the "Proposed Regulatory Framework for Listed Company Audits" may have a significant impact on our members. In view of this, we held a member forum on 6 December 2013 (the "Forum") to seek our



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members' views on the Information Paper and go through the questions as raised in the HKICPA Survey. The Forum was attended by 170 participants. During the Forum, we distributed the HKICPA Survey forms to our members and encouraged them to complete, sign and return such forms to your office directly or SCAA at the reception desk for passing the same to your office on their behalf. At the close of the Forum, 12 copies of the HKICPA Survey form (without signature, name and membership number) were collected by SCAA. The results of these HKICPA Survey forms are summarised in Appendix I.

In addition to the HKICPA Survey, we also carried out our own survey (the "SCAA Survey") in respect of some issues which were not covered by the HKICPA Survey. 59 members returned their replies to the SCAA Survey and the results are summarised in Appendix II. According to the results of the SCAA Survey, most of the respondents gave a positive response to the questions as set out in the SCAA Survey and some gave additional written comments. Based on the results of the SCAA Survey conducted, we would like to highlight the following findings for your consideration:

1. Listed companies have significant impact on the general public and, therefore, should be of greater concern to the Independent Oversight Board (the "IOB") than other public interest entities.
2. Current requirements for registration, including renewal of registration, of members and member firms with HKICPA should not be altered upon introduction of the IOB, i.e. no additional conditions, e.g. past experience and size of the firm etc., should be imposed.
3. All practising members and member firms of HKICPA should be allowed to register under the IOB even though they do not carry out any listed company audit.
4. There should be precise clarification of "fit and proper" for easy compliance.
5. No suspension or withdrawal of licence/registration should be made unless the member or member firm is found guilty.
6. Financial penalty should be limited to a certain percentage of the fee charged for the audit engagement. Some of our members also expressed that suspension or withdrawal of licence is a more effective deterrent than financial penalty to would-be offenders.

In addition to the findings as set out above, we also highlight the following suggestions for your consideration:



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1. Any disciplinary proceedings against the listed company auditors should be referred to an independent disciplinary committee, similar to the existing mechanism adopted by HKICPA, and subject to appeal, instead of just being handled internally by the IOB.
2. The composition of the IOB should be well balanced instead of just resting with the existing and/or ex-partners of "Big" firms.
3. It is appropriate for HKICPA to remain as the standards setter but endorsement of standards by the IOB is not necessary
4. Taking the opportunity of this reform, professional liability reform should be revisited.

We will be delighted to discuss with you the SCAA Survey in further details if so required. Should you have any further questions, please feel free to contact Mr Philip Fung, Chairman of Practice Management Committee, of our Society at 2526-5511 (email: philip.fung@lak-associates-cpa.com) or the undersigned.

Yours sincerely

Stella Choy

President

The Society of Chinese Accountants and Auditors

Encl.

cc The Council of The Hong Kong Institute of Certified Public Accountants



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Appendix I - HKICPA Surveys

Listed company auditor regulation reform proposals

1. Do you agree that we should introduce more independence to listed company auditor regulation system to maintain Hong Kong capital markets' and auditing profession's international reputation?
Yes [10] No [2] No Comment [-] No Answer [-]

2. EC equivalence requirements are wider than IFIAR membership criteria and extend the IOB's responsibilities to cover Registration, CPD and Standard Setting. Should obtaining EC equivalence be an objective of the reform exercise?
Yes [3] No [5] No Comment [3] No Answer [1]

3. If HKICPA continues to be responsible for Registration, CPD and Standard Setting, HKICPA believes that the responsibilities should be derived from direct assignment in law and NOT delegated from the IOB. Do you agree?
Yes [11] No [-] No Comment [-] No Answer [1]

4. There are different ways to exercise oversight. HKICPA believes that the proposed oversight should NOT be constructed to go beyond the minimum required for EC equivalence and give the IOB ownership of Registration, CPD and Standard Setting. Do you agree?
Yes [9] No [1] No Comment [1] No Answer [1]

5. The framework proposes that in addition to firms three categories of individual should also be registered – PIE engagement partners, EQCR reviewers and the person(s) with overall responsibilities for quality control in the firm. HKICPA has no objection to this proposal in principle. Do you agree?
Yes [6] No [3] No Comment [3] No Answer [-]

6. HKICPA believes that the decision on taking away or refusing registration of a firm should be transparent and subject to due process. Do you agree?
Yes [12] No [-] No Comment [-] No Answer [-]



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7. HKICPA believes that the “fit and proper” criteria that have to be met for registration of firms and individuals should be the same as the current criteria used for HKICPA membership; and that “fit and proper” tests should NOT be used to introduce additional registration criteria. Do you agree?
Yes [10] No [1] No Comment [-] No Answer [1]
8. HKICPA believes that cross-border regulation could NOT be effective without certainty about the quality of regulation in other jurisdictions. Do you agree?
Yes [11] No [-] No Comment [1] No Answer [-]
9. HKICPA believes that there should be a clear separation of responsibility between “inspection and investigation” and “subsequent disciplinary action”. Do you agree?
Yes [12] No [-] No Comment [-] No Answer [-]
10. Among the three proposed options for the structure of Enforcement / Disciplinary proceedings, HKICPA prefers option (b) “Cases arising from inspection and investigation be sent to a fully independent disciplinary committee for decision and sanctioning” as it’s the only option that can ensure independence of the functions. Do you agree?
Yes [11] No [1] No Comment [-] No Answer [-]
11. HKICPA proposes the “fourth option” which allows for disciplinary action to be concluded, with the consent of both parties, without proceeding to a formal disciplinary hearing. Do you agree?
Yes [7] No [4] No Comment [1] No Answer [-]
12. HKICPA believes that monetary fines are NOT necessary if the IOB has the power to suspend or withdraw registration – which have potentially more serious consequences of reputational damage and civil action. Do you agree?
Yes [6] No [4] No Comment [2] No Answer [-]
13. If monetary penalties are included in sanctions available to the IOB, HKICPA believes that determining the level of penalty by a multiple of profit is NOT appropriate; instead, penalties should be proportionate and determined by a range of factors including a firm’s financial resources. Do you agree?
Yes [7] No [4] No Comment [1] No Answer [-]



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14. The framework proposes the monetary penalties will be capped at the greater of \$10 million or three times the profit made or loss avoided in carrying out the audit. Do you agree?

Yes [1] No [9] No Comment [2] No Answer [-]

If not, what is a reasonable amount as the maximum penalty?

Comments:

- i) At least HK\$10M for Big 4.
- ii) 200% of fee charged.
- iii) Higher of HK\$1M or 3 times of fee charged.

15. HKICPA believes that the new system should NOT include endorsement of auditing and ethical standards by the IOB as it goes beyond the requirements of oversight. Do you agree?

Yes [11] No [1] No Comment [-] No Answer [-]

16. HKICPA believes that there should be NO reference in the regulatory framework to the right of the IOB (and HKICPA) to participate in international standard setting forums. Do you agree?

Yes [10] No [1] No Comment [1] No Answer [-]

17. HKICPA believes that funding of the IOB should be from sources independent of audit profession, and HKICPA should NOT be involved in determination or collection of funding fees or levies. Do you agree?

Yes [11] No [-] No Comment [1] No Answer [-]

18. HKICPA believes that future composition of the governing and decision making bodies of the IOB should include individuals with substantial knowledge and experience of auditing. Do you agree? If so, what is your suggested composition?

Yes [11] No [-] No Comment [1] No Answer [-]

Comments:

- i) Individual from big firm and SMP on 50/50 basis.
- ii) Big 4, SMP, independent party.



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Appendix II - SCAA Surveys

Exercise of oversight by independent body

1. Do you agree that IOB should ONLY be responsible for oversight of auditor of listed company, NOT other entities (other PIE)?

Yes [56] No [3] No Comment [-] No Answer [-]

Remarks:

- i) The audit reports of listed companies should have greater impact on the general public than those of other PIEs.

Registration

2. By existing law and regulations, CPAs (Practising) are allowed to carry out audit for listed companies without any further conditions imposed, e.g. past experience, number of staff. Should this existing practice be continued?

Yes [57] No [2] No Comment [-] No Answer [-]

Remarks:

- i) There should be some fundamental requirements spelt out to prevent audit failure of ineffective audit of listed companies at the beginning.
ii) Insisted continuing.
iii) PC holders have been trained with skills and competence to perform any audit work, including listed company.

3. Do you agree that any CPAs (Practising) should be allowed to join the new registration under the IOB even though without audit of listed companies?

Yes [57] No [2] No Comment [-] No Answer [-]

Remarks:

- i) Avoid creating a second class auditor. Otherwise, those auditors / audit firms that do not have listed company audit may founder.



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4. Do you agree that there should be precise clarification of “fit and proper” for easy compliance?

Yes [53] No [5] No Comment [1] No Answer [-]

Remarks:

- i) Should illustrate more.
- ii) Adopting existing is more adequate.
- iii) “Fit & Proper” is well-defined by PAO and should be followed.

5. Do you agree that no suspension or withdrawal of licence / registration should be applied unless the CPA (Practising) is found guilty?

Yes [58] No [1] No Comment [-] No Answer [-]

Remarks:

- i) Transparent & due process should be completed before any disciplinary actions be taken.

Disciplinary and sanctions

6. Financial penalty should be limited to 100% of the fee charged in that assignment. Do you agree?

Yes [46] No [12] No Comment [-] No Answer [1]

Remarks:

- i) 0 – 100% depending on the level of significance.
- ii) With cap of higher amount.
- iii) Limit to 150% of fee.
- iv) Higher of HK\$1M or 3 times of the fee charged.
- v) Not more than 500% of the fee charged.
- vi) 200%.
- vii) Setting fixed % is required under transparent system.
- viii) Not necessarily limited to 100% but there should be a maximum amount.
- ix) Other penalties, e.g. suspension and cancellation of PC licence, are more powerful deterrent to any wrong-doing.