

Memorandum of Understanding

between

The Financial Reporting Council

and

The Hong Kong Institute of Certified Public Accountants

6 May 2021

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I. Introduction

1. This memorandum of understanding is entered into between the Financial Reporting Council of 24/F Hopewell Centre, 183 Queen's Road East, Wanchai, Hong Kong and the Hong Kong Institute of Certified Public Accountants of 37th floor, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong,
2. The Financial Reporting Council is empowered under section 10(2)(d) of the Financial Reporting Council Ordinance (Cap. 588) to enter into this memorandum of understanding.
3. The Hong Kong Institute of Certified Public Accountants is empowered under section 18 of the Professional Accountants Ordinance (Cap. 50) to enter into this memorandum of understanding.

Definitions

4. Save where the context otherwise requires, the following terms shall have the meanings attributed to them below:

Term	Meaning
Confidential Information	All non-public information passing between the Parties except information already known to the receiving Party or made public by breach of the obligation of confidentiality under this MoU
Enquiry	An enquiry initiated by the FRC under section 40 of the FRCO

FRC	Financial Reporting Council
FRCO	Financial Reporting Council Ordinance (Cap. 588) as in force from 1 October 2019
HKICPA	Hong Kong Institute of Certified Public Accountants
Investigation	An investigation initiated by the FRC under section 23 or 23A of the FRCO
Listed Entity	Listed entity as defined under section 3 of the FRCO
Misconduct	Misconduct by a PIE auditor as defined under section 37A of the FRCO or by a registered responsible person as defined under section 37B of the FRCO
MoU	Memorandum of Understanding
Non-PIE Auditor	A non-PIE auditor as defined under section 3A(1) of the FRCO
PAO	Professional Accountants Ordinance (Cap. 50)
Parties	The FRC and the HKICPA, and “Party” means either of them
PIE	A public interest entity as defined under section 3(1) of the FRCO
PIE Auditor	A PIE auditor as defined under section 3A(1) of the FRCO
PIE Auditors Register	The register of PIE auditors established under section 20ZX of the FRCO
PIE Engagement	Any type of engagement as set out in Part 1 of Schedule 1A of the FRCO
Practice Irregularity	Practice irregularity as defined under section 4 of the FRCO
Registered PIE Auditor	A practice unit registered under Division 2 of Part 3 of the FRCO or a registered PIE auditor (provisional) as defined in section 3A of the FRCO
Registered Responsible Person	An individual whose name is recorded in the PIE auditors register as a responsible person of a Registered PIE Auditor
Relevant Non-compliance	Relevant non-compliance as defined under section 5 of the FRCO

The Parties

5. The FRC is a statutory body established under the FRCO. The FRC's main functions relevant to this MoU are:
 - (a) To regulate auditors of Listed Entities through the following means
 - (I) by a system of registration (implemented by the HKICPA and overseen by the FRC) and recognition whereby (i) Hong Kong and non-Hong Kong auditors of Listed Entities are required to be registered and recognised respectively as PIE Auditors; and (ii) such registration and recognition is required to be renewed annually;
 - (II) by conducting inspections of PIE Auditors' internal quality control systems and selected PIE Engagements; preparing reports of inspections of individual PIE Auditors; taking appropriate follow-up measures in relation to inspections of PIE Auditors; and publishing annual inspection findings with highlights of the important issues identified;
 - (III) by conducting Investigations into possible Misconduct by PIE Auditors and Registered Responsible Persons and by imposing sanctions for such Misconduct; and
 - (IV) by conducting Investigations into possible Practice Irregularities by non-PIE Auditors, and preparing reports thereon for referral to the HKICPA.
 - (b) To oversee the HKICPA's performance of the functions set out in paragraphs 6(b), (c) and (d) below, as provided under section 9(b) of the FRCO.
 - (c) To monitor the compliance by Listed Entities of regulatory requirements for financial reports by conducting Enquiries; preparing reports thereon, securing the removal of any Relevant Non-compliance; and referring the reports to other appropriate authorities for follow-up action where necessary.
6. The HKICPA is a statutory body established under the PAO. The main functions of the HKICPA relevant to this MoU are:
 - (a) The registration of certified public accountants in Hong Kong and the issue of practising certificates;
 - (b) The registration of PIE Auditors under Division 2 of Part 3 of the FRCO and the maintenance of the PIE Auditors Register;

- (c) The setting of standards for the practice of accountancy in Hong Kong, including standards on professional ethics, and auditing and assurance practices, for registered PIE Auditors;
- (d) The setting of continuing professional development requirements for registered PIE Auditors;
- (e) Carrying out practice reviews in respect of practice units under sections 32B and 32BA of the PAO;
- (f) Regulating the professional conduct and standards of members of the HKICPA.

Legal status

- 7. The Parties acknowledge and agree that they have entered into this MoU in good faith and for the purpose of facilitating cooperation in matters covered by this MoU, and that this MoU is not intended to:
 - (a) create any binding legal obligations; or
 - (b) fetter the discretion of the Parties in any way in the discharge of their functions.
- 8. This MoU sets out the working arrangements between the Parties to ensure efficient and effective co-operation and co-ordination of their respective functions, except for:
 - (a) The FRC's oversight of the HKICPA's performance of the specified functions, the working arrangements for which are set out in The Statement of Protocol on Oversight Arrangements signed by the Parties on 27 September 2019; and
 - (b) The co-operation between the Parties in respect of the regulation of engagements completed by auditors before 1 October 2019, the working arrangements for which are set out in the MoU signed by the Parties on 20 February 2008.

II. Working arrangements between the Parties

Sharing of information and Confidentiality

- 9. Each Party may, to the extent it considers appropriate and permitted by applicable law, share information with the other Party to assist the other Party in the effective performance of its statutory functions.
- 10. The Parties will not disclose to any third party any Confidential Information, without the written consent of the other, or unless:
 - (a) required by law; or

- (b) for the purpose of seeking advice from, or giving advice by, counsel, or a solicitor, or other professional advisor, acting or proposing to act in a professional capacity in connection with any matter arising under the FRCO.

Where legally permissible, the other Party will be notified upon receipt of a demand for release of Confidential Information.

- 11. If one of the Parties becomes aware of the possession, use, misappropriation, or knowledge of any Confidential Information without authority it will inform the other.

Referrals to the FRC by the HKICPA

- 12. If it comes to the notice of the HKICPA in the performance of its functions under the PAO that there may be:
 - (a) Misconduct by a Registered PIE Auditor or a Registered Responsible Person;
 - (b) Practice Irregularity by a non-PIE Auditor¹; or
 - (c) Relevant Non-compliance by a Listed Entity,

the HKICPA will refer the matter to the FRC, having regard to the requirements under section 42CA of the PAO, where applicable.

Referrals to the HKICPA by the FRC

- 13. Where the FRC has reasonable cause to believe that a Non-PIE Auditor has committed a Practice Irregularity, the FRC may carry out an Investigation under section 23A of the FRCO and prepare a report thereon for referral to the HKICPA.
- 14. If it comes to the notice of the FRC in the performance of its functions under the FRCO that one or more of the subparagraphs of section 34(1) of the PAO may apply to a current member of the HKICPA, registered firm or corporate practice, in any matter which is outside the remit of the FRC, the FRC will refer the matter to the HKICPA.

Co-operation on referrals

- 15. The referring Party will use its best endeavours to provide the other Party with all

¹ A non-PIE auditor is a practice unit that undertakes or carries out any of the following engagements:

- 1. An auditor's report in relation to the financial statements or annual accounts of a listed corporation whose listed securities do not comprise shares or stocks, required to be prepared under section 379 of the Companies Ordinance (Cap 622) or under the Listing Rules;
- 2. A specified report required to be included in a listing document, for the listing of securities (other than shares or stocks), of a listed corporation or a corporation seeking to be listed.

relevant information in its possession and explain the reasons why it considers it is appropriate for the other Party to take action.

16. Where the FRC makes a referral to the HKICPA under paragraphs 13 and 14 above, the FRC will provide the HKICPA with all relevant evidence and materials, including any Investigation Report if applicable, and all reasonable assistance, for the purpose of appropriate action by the HKICPA.
17. For any Disciplinary Committee hearing arising from a referral under paragraph 13 above by the FRC the HKICPA will assist the FRC in its presentation of any submission to the Disciplinary Committee for an order for payment to the FRC of such costs incurred by the FRC as are within the powers of the Disciplinary Committee pursuant to s.35(1)(d)(ii) of the Professional Accountants Ordinance, Cap 50.
18. Either Party who has received a referral under paragraph 12, 13 or 14 above will inform the other Party of its decision over the referral and the reasons therefor.

Liaison

19. The representatives of the Parties will meet at least once a year to review the effective functioning of this MoU and any significant matters arising subsequent to the last meeting.
20. Liaison meetings will be held as the Parties may consider appropriate in respect of any of the individual areas of mutual assistance on dates and at venues agreed in advance.

Signed for and on behalf of
THE FINANCIAL REPORTING COUNCIL

Marek Grabowski
Chief Executive Officer
Dated: 6 May 2021

Signed for and on behalf of
HONG KONG INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

Margaret Chan
Chief Executive and Registrar
Dated: 6 May 2021