

**Discipline Policy
Statement for PIE Auditors
and Registered
Responsible Persons**

Introduction

1. The Accounting and Financial Reporting Council (“**AFRC**”) is an independent body established under the Accounting and Financial Reporting Council Ordinance (Cap. 588) (“**AFRCO**”).
2. Under the AFRCO, the AFRC is empowered to impose sanctions on the following persons where they have committed FR misconduct and under certain specified situations:
 - (a) public interest entity (“**PIE**”) auditors, being:
 - (i) registered PIE auditors;
 - (ii) recognized PIE auditors; and
 - (b) registered responsible persons of a registered PIE auditor

(together referred to as “**Regulatees**”).

Definitions

3. In this Policy Statement, the following terms have the meanings defined in the AFRCO as set out below (the definitions in the AFRCO shall prevail in case of any inconsistency):

Terms	Meanings defined in the AFRCO	Section under the AFRCO
PIE	A PIE means a listed corporation the listed securities of which comprise at least shares or stocks, or a listed collective investment scheme.	3(1)
PIE engagement	A PIE engagement means any of the following types of engagements for the preparation of: <ul style="list-style-type: none"> • an auditor’s report on a PIE’s financial statements/annual accounts required by section 379 of the Companies Ordinance (Cap. 622), the Listing Rules or any relevant code; 	3A(1); Part 1 of Schedule 1A

Terms	Meanings defined in the AFRCO	Section under the AFRCO
	<ul style="list-style-type: none"> • a specified report required to be included in a listing document for the listing of a corporation's shares or stocks or for the listing of a collective investment scheme; or • an accountant's report required under the Listing Rules to be included in a circular issued by a PIE for a reverse takeover or a very substantial acquisition. 	
PIE auditor	A PIE auditor means a registered or recognized PIE auditor.	3A(1)
professional standard	<p>A professional standard means:</p> <ul style="list-style-type: none"> • any statement of professional ethics, or standard of accounting, auditing or assurance practices, issued or specified, or deemed to have been issued or specified, under section 18A of the Professional Accountants Ordinance (Cap. 50); • any standard on professional ethics, or accounting, auditing or assurance practices, issued or specified by the International Accounting Standards Board, the International Auditing and Assurance Standards Board or the International Ethics Standards Board for Accountants; • any standard on professional ethics, or accounting, auditing or assurance practices, comparable to those referred to above which is allowed by the Securities and Futures Commission pursuant to the relevant code or by the Hong Kong Exchanges and Clearing Limited pursuant to the Listing Rules; or • any standard on professional ethics, or accounting, auditing or assurance practices, specified in the Listing Rules. 	2(1)

Terms	Meanings defined in the AFRCO	Section under the AFRCO
recognized PIE auditor	A recognized PIE auditor means an overseas auditor recognized under Division 3 of Part 3, including a Mainland auditor recognized under section 20ZT of the AFRCO.	3A(1)
registered PIE auditor	A registered PIE auditor means a practice unit registered under Division 2 of Part 3 of the AFRCO.	3A(1)
registered responsible person	<p>A registered responsible person means any of the following individuals whose name is recorded in the PIE auditors register as a responsible person of a registered PIE auditor:</p> <ul style="list-style-type: none"> • an engagement partner; • an engagement quality control reviewer; or • a quality control system responsible person. 	2(1)

Purpose of this document

4. The purpose of this Policy Statement is to provide an overview of the legal regime of the disciplinary function of the AFRC for Regulatees.
5. For details of the AFRC's disciplinary process, please refer to the [“Outline of the AFRC's Disciplinary Process”](https://www.afrc.org.hk/), which is available on the AFRC's website (<https://www.afrc.org.hk/>).

Objectives of discipline

6. The AFRC is entrusted with the statutory duty to regulate the accountancy profession. An effective regulatory regime of the accountancy profession is crucial for the business community and is essential for maintaining Hong Kong's status as an international financial centre.
7. The AFRC regulates through imposing disciplinary sanctions on Regulatees. It ensures that where there has been FR misconduct committed by Regulatees, or upon the occurrence of certain specified events (as further elaborated in paragraph 11 below), appropriate and timely action will be taken:

- (a) to uphold proper standards of conduct amongst Regulatees so as to maintain and enhance the quality and reliability of future audits;
- (b) to maintain and promote public confidence in:
 - (i) the integrity of the accountancy profession;
 - (ii) the quality of their audits; and
 - (iii) the regulation of the accountancy profession;
- (c) to protect the public from Regulatees whose conduct has failed to comply with the relevant requirements set out in the AFRCO; and
- (d) to deter Regulatees from committing FR misconduct relating to PIE audits.

Circumstances in which disciplinary sanctions may be imposed

FR Misconduct

8. Pursuant to sections 37D and 37E of the AFRCO, disciplinary action may be taken against a Regulatee who has committed FR misconduct. As provided in sections 37A and 37B of the AFRCO, FR misconduct in this context includes:
 - (a) a contravention of a provision of the AFRCO;
 - (b) a contravention of a condition imposed in relation to the registration or recognition of the PIE auditor concerned;
 - (c) a contravention of a requirement imposed on a Regulatee under the AFRCO;
 - (d) conduct in relation to a PIE engagement which is or is likely to be prejudicial to the interest of the investing public or the public interest; or
 - (e) a “practice irregularity” as defined under section 4 of the AFRCO (see paragraph 9 below).

9. Examples of a “practice irregularity” include situations where a Regulatee, in relation to a PIE engagement:
 - (a) falsified or caused to be falsified a document;

Sections 37D and 37E of the AFRCO

Sections 37A and 37B of the AFRCO

Section 4 of the AFRCO

- (b) made a statement, in respect of a document, that was material and that the Regulatee knew to be false or did not believe to be true;
 - (c) has been negligent in the conduct of the Regulatee's profession;
 - (d) has been guilty of professional misconduct;
 - (e) did or omitted to do something that would reasonably be regarded as bringing or likely to bring discredit on the Regulatee, the Hong Kong Institute of Certified Public Accountants ("**HKICPA**") or the accountancy profession;
 - (f) failed or neglected to observe, maintain or otherwise apply a professional standard; or
 - (g) refused or neglected to comply with the provisions of any bylaw or rule made, any direction lawfully given by the Council of the HKICPA, or any direction lawfully given by the AFRC.
10. The above examples are not exhaustive. Please refer to section 4 of the AFRCO for a full list of matters that constitute a "practice irregularity".

Other situations where the AFRC may impose sanctions

11. Section 37F of the AFRCO sets out a number of additional situations in which the AFRC may impose sanctions on registered PIE auditors and registered responsible persons. These generally relate to insolvency events, the conviction of an offence that impugns the fitness and properness of the relevant persons and mental incapacity.

Section
37F of the
AFRCO

Opportunity to be heard

12. The AFRC must not impose a sanction on a Regulatee without first giving the Regulatee a reasonable opportunity of being heard, i.e. an opportunity to make written or oral representations.
13. Please refer to the "[Outline of the AFRC's Disciplinary Process](#)", which is available on the AFRC's website (<https://www.afrc.org.hk/>) for details in relation to the opportunity to make representations.

Section
37G of the
AFRCO

Sanctions

Sanctions for FR misconduct

14. The AFRC may impose the following sanctions for FR misconduct on a PIE auditor: Section 37D of the AFRCO
- (a) public or private reprimand;
 - (b) remedial action;
 - (c) pecuniary penalty;
 - (d) imposition of a condition on the registration or recognition;
 - (e) revocation or suspension of the registration or recognition; and
 - (f) prohibition from applying to be registered or recognized as a PIE auditor for a period of time.
15. The AFRC may impose the following sanctions for FR misconduct on a registered responsible person: Section 37E of the AFRCO
- (a) public or private reprimand;
 - (b) remedial action;
 - (c) pecuniary penalty; and
 - (d) removal of name from the list of registered responsible persons permanently or for a period of time.
16. The above sanctions may be imposed singly or in combination.

Other situations where the AFRC may impose sanctions

17. In the situations described in paragraph 11 above, the AFRC may: Section 37F of the AFRCO
- (a) revoke or suspend the registration of a registered PIE auditor; and
 - (b) remove the name of a registered responsible person from the list of registered responsible persons permanently or for a period of time.

Approach to determining pecuniary penalty and other sanctions

18. The AFRC will consider all the relevant circumstances of a case to determine the appropriate sanction or combination of sanctions which would achieve the purpose of disciplinary action with due regard to the principle of proportionality.
19. Before imposing a pecuniary penalty, the AFRC is required to have regard to the [“Guidelines for Exercising the Power to Impose a Pecuniary Penalty for PIE Auditors and Registered Responsible Persons”](#), which is available on the AFRC’s website (<https://www.afrc.org.hk/>).
20. For further information as to the AFRC’s approach to sanctions generally, please refer to the [“Sanctions Policy for PIE Auditors and Registered Responsible Persons”](#), which is also available on the AFRC’s website (<https://www.afrc.org.hk/>).

Sections 13 and 37H of the AFRCO

Review of the AFRC’s disciplinary decisions

21. Any Regulatee who is aggrieved by the AFRC’s disciplinary decision may, within 21 days beginning on the day after a notice of the decision is issued by the AFRC, apply to the Accounting and Financial Reporting Review Tribunal (“**Tribunal**”) for a review of that decision.
22. The Tribunal is independent of the AFRC. The Tribunal consists of a chairperson (a former Justice of Appeal of the Court of Appeal, a former judge / recorder / deputy judge of the Court of First Instance or a person eligible for appointment as a judge of the High Court) and two other ordinary members from the Tribunal panel, all of whom must not be public officers.
23. The chairperson and members of the Tribunal panel must be appointed by the Chief Executive of the HKSAR.

Sections 37M and 37Q of the AFRCO

Sections 2, 3, and 5 of Schedule 4A of the AFRCO

Sections 2 and 3 of Schedule 4A of the AFRCO

Appeal

24. If a party to a review is dissatisfied with the determination of the review made by the Tribunal, the party may, within 30 days after the day on which the determination is issued to the party, apply to the Court of Appeal for leave to appeal against that determination on a question of law and/or fact.

Sections 37ZF and 37ZG of the AFRCO

Disclosure of sanctions

25. The AFRC must disclose to the public the material facts of the case, the AFRC's decision with reasons and the disciplinary sanction imposed / action taken, unless the disclosure:
- (a) relates to a private reprimand;
 - (b) may adversely affect any criminal proceedings before a court or magistrate; or
 - (c) in the AFRC's opinion, is not in the interest of the investing public or in the public interest.
26. The disclosure may only be made after:
- (a) where a sanction is imposed upon the conclusion of the disciplinary process –
 - (i) the expiry of the period for lodging an application for review to the Tribunal; or
 - (ii) if an application for review is lodged, the disposal of the review; or
 - (b) where a settlement is reached and disciplinary action is taken by consent pursuant to section 371 of the AFRCO – a notice pursuant to section 371(4) of the AFRCO is issued.
27. In general, disclosure will be made by means of a press release, which will be made available on the AFRC's website (<https://www.afrc.org.hk/>).

Section
37K of the
AFRCO

Disclaimer

28. This document provides a summary for reference only. It is not legal advice. Regulatees should seek their own legal advice. In the event of any inconsistency between this document and the AFRCO, the AFRCO shall prevail.