



SECURITIES AND FUTURES COMMISSION

證券及期貨事務監察委員會

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CB(1)1866/11-12(02)

11 May 2012

Hon Paul CHAN Mo-po, MH, JP
Chairman of the Legislative Council Bills Committee
on Companies Bill
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

By Hand & By Fax
(Fax No.: 2840 0797)

Dear 

Legislative Council Bills Committee on Companies Bill meeting on 15 May 2012 to receive views on offences relating to contents of auditors' report (clause 399)

Thank you for your letter of 7 May 2012 inviting us to give views on clause 399 of the Companies Bill.

Quality and reliable financial information of listed companies is a cornerstone of investors' confidence in the Hong Kong stock market. Auditors have a statutory duty under the Hong Kong Companies Ordinance to report on the financial statements prepared by companies. To maintain Hong Kong's position as a leading international financial centre, it is essential that market participants have confidence in auditors' work.

One element contributing to this confidence is a robust and effective regulatory regime for auditors that includes an appropriate spectrum of sanctions for auditors that fail to meet their statutory obligations. As criminal sanctions will only come into play in the most egregious cases, in our view criminal sanctions act as an appropriate deterrent and are needed to ensure that Hong Kong has an effective regulatory regime for auditors. Thus we support the policy intent to introduce criminal sanctions for auditors in the Companies Bill.

We note that Clause 399(2) applies to the auditor and employees and agents of the auditor who are eligible for appointment as auditor of the company. Our understanding is that normally an audit is performed by a team of people lead by a partner (or equivalent person in a corporation). For larger audits the audit team is made up of experienced qualified accountants often with some years of experience. Whilst the partner has overall responsibility for the audit and signs the auditors' report, we understand that a significant element of the audit work is performed by senior members of the audit team who play a key role in the audit engagement.

We understand that the policy intention is for the sanctions to apply not just to the partner but also senior members of the audit engagement but not to junior persons involved in an audit. We support this policy.



We note that Clause 399 applies to employees and agents of the auditor who are eligible for appointment as auditor of the company; limiting the scope to persons who are eligible for appointment as auditor of the company may not be in line with our understanding of the policy intention. We believe that many senior members of an audit team are not qualified to act as an auditor of the company. One reason for this is that to qualify as an auditor an accountant has to obtain a practising certificate. This requires the accountant to pass an additional exam beyond that required to qualify as an accountant and pay a fee. Many individuals chose not to do so until it is required. We thus suggest that the text needs to be revised to reflect the policy intent.

Yours sincerely

Ashley Alder

c.c.: Miss AU King-chi, PSFS
Mr Nick AU-YEUNG, 6 PAS(FS)6