

**For discussion on  
7 December 2010**

**Legislative Council Panel on Security**

**Creation of a Forensic Accountant Grade  
and a Chief Commission Against Corruption Officer Rank  
in the Commission Against Corruption Officer Grade**

**PURPOSE**

This paper sets out the proposal for the creation of a new grade of Forensic Accountant (FA) comprising three ranks and a new rank of Chief Commission Against Corruption Officer (CCACO) in the Commission Against Corruption Officer (CACO) grade in the Independent Commission Against Corruption (ICAC).

**BACKGROUND**

2. In its report on the Grade Structure Review (GSR) of the Disciplined Services issued in November 2008, the Standing Committee on Disciplined Services Salaries and Conditions of Service (SCDS) supported in principle the creation of a new FA grade with a three-rank structure headed by a directorate rank on ICAC Pay Scale (IPS) Point 45 and the creation of a new CCACO rank at the directorate level of IPS 45.

3. In its 2008 GSR Report, the SCDS fully recognised the need for the ICAC to develop a special professional cadre of FA by offering a reasonably attractive remuneration package and establishing a clear career path. Having examined various options and making reference to the prevailing remuneration package for comparable professionals in the public and private sectors, the SCDS concluded that establishing a dedicated grade of FA in the ICAC would openly manifest the determination and efforts of the ICAC in fighting corruption, and enable the ICAC to adjust its pay and requirements to meet its dynamic operational needs. The SCDS shared the view that a formal grade and rank title

of FA would serve as a form of non-cash recognition. In view of the strategic role of forensic accounting, the SCDS also saw merits in enhancing the role of FA at the directorate level and supported the proposed three-rank structure to be headed by a directorate FA comparable to the new CCACO rank (paragraph 4 below), which is to be supported by a senior professional rank and a professional rank.

4. The SCDS also noted that unlike all other Disciplined Services having directorate ranks comparable to Directorate rank Point 1 (D1) rank, e.g. Chief Superintendent of Police, Chief Superintendent of Customs and Excise, the ICAC does not have any rank and posts on IPS 45. With changes in the ICAC's operating environment, the SCDS saw a strong case for a new CCACO rank to be created in the ICAC to cope with the functional requirements arising from the growing complexity and responsibilities at the directorate level, in particular compliance assurance including the supervision of the use of covert surveillance and telecommunications interception in ICAC investigations under the regime of the Interception of Communications and Surveillance Ordinance. Such responsibilities involve a level of complexity and significance requiring the direct and full-time command of directorate officers at D1-equivalent level.

## **PROPOSALS**

5. We propose to create a new professional grade of FA comprising three ranks, namely, Chief Forensic Accountant (CFA) which will be paid at IPS 45, Senior Forensic Accountant (SFA) from IPS 41 to 44a and FA from IPS 26 to 40. One CFA, two SFA and eight FA posts will be created. We also propose to create a new rank and two posts of CCACO which will be paid at IPS 45.

## **JUSTIFICATIONS**

### **Creation of a new Forensic Accountant Grade**

6. There has been an upsurge of corruption-related fraud cases in recent years, many of which involve complex business transactions, financial markets, global flow of funds and cross-border money laundering. The Commission strives to crack down on offences committed or concealed by accounting professionals and financial controllers, leading to successful prosecution of senior executives of a number of publicly listed companies. Between 2007 and 2009,

the ICAC processed a total of 515 such cases, involving 892 target persons and companies with 16,217 transactions at an aggregate value of \$16 billion. The heavy caseload has been posing a strain on our manpower.

7. With the advent of information technology and the rapid changes in the financial markets, corruption cases facilitated by financial fraud are becoming more complex, involving multi-layers of fund flows, a large number of parties (including offshore companies), and innovative and aggressive accounting techniques. Since 2005-06, professional accountants have been appointed as Senior Investigators and Investigators at the CACO(Middle/Lower) (M/L) rank to fill the vacancies in two Financial Investigation (FI) Sections established with two CACO(Upper) and eight CACO(M/L) posts. With their professional knowledge and integrated skills in accounting, auditing and investigation, they provide professional advice to frontline officers in the investigation of complex corruption cases, and give evidence in court on financial and accountancy related matters.

8. In recent years, as there has been an acute shortage of experienced accountants in the market, accountancy firms have to offer very competitive remuneration packages to retain their staff. Coupled with the increasing demand for qualified accountants with law enforcement experience by the compliance departments in the finance and banking industries, the ICAC has encountered difficulties in retaining experienced forensic accountants. Failure to retain in-house forensic accountants has resulted in the ICAC engaging the services of professional accountants in the private sector, that charged an hourly rate of \$5,000 and \$3,500 respectively at partner and senior manager levels. However, as professional accountants from the private sector do not possess law enforcement experience, considerable input is required from ICAC officers.

9. To rationalise the manpower support in forensic accounting, we propose to create a new FA grade which would facilitate the offer of a reasonably attractive remuneration package, establish a clear career path for the officers concerned and serve as a form of non-cash recognition for officers working in the FI Sections. The establishment of a dedicated grade of FA which has experience and professional expertise in forensic accounting would also increase the credence of ICAC expert witnesses in court proceedings. The proposed FA grade comprises three ranks, namely, CFA, SFA and FA. The pay structure of the grade draws reference from the Treasury Accountant (TA) grade comprising Chief Treasury Accountant, Senior Treasury Accountant and Treasury Accountant which provide professional accounting service on the investigation of

commercial crime and smuggling-related money laundering to other disciplined services departments. However, officers to be appointed to the ranks of CFA, SFA and FA are required to possess solid experience in the investigation of financial fraud in addition to the basic professional qualifications and post-qualification experience required by the TA grade. The pay scales of the three ranks of the FA grade are pitched at a slightly higher level than those of the comparable ranks of the TA grade by a range of 3% to 10% to reflect this additional requirement, and to enable the Commission to attract and retain talents. A comparison table of the salary scales of the new FA grade vis-à-vis the TA grade is at **Enclosure 1**.

10. We propose that the new FA Group should be headed by a CFA and supported by two SFAs and eight FAs. The creation of the new FA Group and the related posts will be offset by the deletion of the existing two CACO(Upper) and eight CACO(M/L) posts in the FI Sections.

11. The CFA, who will be an experienced professional deployed full time to the work of the FA Group, unlike a career SCACO, will be able to formulate policies and set standards for the provision of forensic accounting service, steer the Group under his command and supervise the work performed by his subordinates to ensure efficient service delivery and compliance and act as a grade manager to enhance training and continuous professional development of the FA Grade. The CFA will report direct to an Assistant Director (AD) who, among other duties, oversees the organisational and administrative functions of the FA Group. The CFA will be underpinned by two SFAs, each heading a team of four FAs. The job descriptions of the new ranks are set out at **Enclosures 2(a) to 2(c)**.

12. To ensure the effective discharge of the responsibilities, the entry rank of FA should be filled by suitable candidates with relevant professional qualifications and at least two years' post-qualification experience related to financial fraud investigation. The CFA and SFA will be promotion ranks. However, for direct entry, candidates must have, on top of their professional qualification, at least ten years' and eight years' post-qualification experience respectively, of which five years and three years are related to financial fraud investigation. For the initial setup of the FA grade, the vacancies will be filled by open recruitment. Serving officers and outside candidates who have met the required qualifications may apply and will be considered for appointment through open recruitment.

## **Creation of a new rank of Chief Commission Against Corruption Officer**

13. At present, each of the 19 investigation/support groups in the Operations Department of the ICAC is led by a Principal Investigator (PI) pitched at the rank of SCACO. Two PIs are performing higher level responsibilities not on a par with the accountability and responsibilities required of them. To cope with the functional requirements arising from their increasing responsibilities both in terms of complexity and volume, we propose to upgrade two SCACO posts to the proposed rank of CCACO which will be filled by promotion.

### *Upgrading of SCACO to CCACO in command of G Group*

14. Following the enactment of the Interception of Communications and Surveillance Ordinance (ICSO) on 9 August 2006, all telecommunications interception (TI) and covert surveillance operations with the use of surveillance devices by law enforcement agencies (LEAs), including the ICAC, have to obtain a prescribed authorization. The PI in charge of G Group (PI/G) has the responsibility for processing TI applications submitted by frontline PIs, with the approval of their operational ADs, under the ICSO. He is required to scrutinise all TI applications to ensure that all statutory requirements are met before he submits his affirmation for consideration by one of the three designated panel judges of the High Court. If PI/G is satisfied that a TI application has met all statutory requirements, he will process the application and submit it to the panel judge on behalf of the Operations Department. PI/G is empowered to recommend to the respective AD not to pursue any TI application if he is not convinced that the circumstances justify the making of the application. PI/G also oversees the intelligence gathering unit which collates intelligence obtained from TI and disseminates it to frontline investigating sections.

15. Whilst the authorizing authority for Type 1 Surveillance<sup>1</sup> under the ICSO regime rests with the three designated High Court panel judges, PI/G is the authorizing authority designated within the Operations Department to consider all Type 2 Surveillance<sup>1</sup> applications submitted by frontline PIs. PI/G is also in command of a Central Registry which manages all administrative matters arising

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<sup>1</sup> The distinction between Type 1 and Type 2 Surveillance reflects the different degrees of intrusiveness into the privacy of those who are subject to the surveillance. Type 2 Surveillance covers "participant monitoring" situations where the words or activities of the target of surveillance are being listened to, monitored by or recorded by someone (using a listening device or optical surveillance device) whom the target reasonably expects to be so listening or observing. It also covers situations where the use of an optical or tracking device does not involve entry onto premises without permission or interference with the interior of conveyance or object, or electronic interference with the device, without permission. Any covert surveillance other than Type 2 Surveillance is Type 1 Surveillance.

from the execution of ICSO authorizations.

16. PI/G therefore performs a supervisory role over other PIs in relation to TI and covert surveillance and he has the power to reject Type 2 Surveillance applications placed before him. As the approving authority in respect of Type 2 Surveillance applications, PI/G is assuming a role similar to a designated High Court panel judge in considering Type 1 Surveillance applications, save that Type 2 Surveillance involves a participating agent. To cope with the functional requirements arising from their increasing responsibilities both in terms of complexity and volume, it is inappropriate for the incumbent of PI/G to be at the level of an SCACO just like the other PIs. However, notwithstanding the request of the Bills Committee of the Legislative Council at its meeting on 8 June 2006 on Interception of Communications and Surveillance Bill that the level of the approving authority for executive authorization in LEAs should be pitched at Directorate rank Point 1 (D1), the approving authority for ICAC had to remain at the level of SCACO under the charter of G Group at the time as no such rank exists in the hierarchy of the ICAC. To perform his supervisory role in an appropriate manner, the PI/G post should be at the level of the proposed CCACO rank equivalent to his counterpart in the Hong Kong Police Force, who is a Chief Superintendent of Police, also comparable to D1 rank.

*Upgrading of SCACO to CCACO in command of R Group*

17. The PI in command of R Group (PI/R) acts as the Compliance Assurance Officer of all TI and Type 1 and Type 2 Surveillance operations undertaken by frontline investigation groups under the ICSO regime. He assists the Commissioner on Interception of Communications and Surveillance (C/ICS) to oversee compliance under the ICSO and the Code of Practice.

18. PI/R conducts internal enquiries on non-compliance cases on TI and covert surveillance carried out under the command of frontline PIs. In doing so, he examines the work of all frontline officers up to the rank of PI in respect of non-compliance cases, and reports details of his investigations and findings for submission to C/ICS, including making recommendations on such matters as revision of procedures and disciplinary actions. He is responsible for answering queries raised by C/ICS during the latter's inspection of ICAC's applications and execution of TI and covert surveillance operations under the ICSO regime. PI/R also advises the senior management on the ways to improve the implementation and compliance of ICSO by such means as refining internal procedures relating to the operation of the ICSO. In addition, he advises the senior management on

training policy relating to ICSO compliance, administrative procedures and the implementation of applications made under ICSO, and conducts briefings for PIs and their subordinates on such issues. He also commands all operational PIs and their subordinates to adhere to the Code of Practice. Whilst he administratively comes under the supervision of an AD, D2-equivalent level, PI/R is directly answerable to the Director of Investigation (Government Sector) (D/GS) pitched at IPS 47 which is equivalent to D3, in respect of inquiries into alleged cases of irregularity or non-compliance under the ICSO regime. Given his functional responsibilities, the incumbent of PI/R should be more senior than frontline PIs whose work is under his scrutiny. The post of PI/R should be pitched at CCACO level.

19. The job descriptions of the proposed CCACO/G and CCACO/R are set out at **Enclosures 3(a) and 3(b)**. The existing and proposed organisation charts of the Operations Department are respectively at **Enclosures 4(a) and 4(b)**.

### **Alternatives Considered**

20. We have critically examined whether the existing ranks and remuneration package of the CACO grade can effectively help recruit and retain accounting talents. Given the fact that ICAC is facing keen competition with compliance departments in the finance and banking industries for experienced professional accountants with audit and forensic accounting experience, we have to offer them comparable remuneration package with their counterparts in the private sector to aspire them to join the Commission. We also consider that it would not be desirable financially and operationally to engage external accountants in support of forensic accounting work on a long-term basis.

21. We have also critically explored the feasibility of arranging for other directorate officers to absorb some of the duties of the two proposed CCACO posts but have come to a view that such an alternative is not feasible. Not only are the other directorate officers already fully occupied with their core duties, but also as a matter of principle, they should be kept functionally independent of the execution of covert surveillance and TI in ICAC investigations. This is important in order to provide the necessary internal checks and balance and clear delineation and separation of duties to ensure the integrity and effectiveness of operational proceedings. We therefore conclude that there are no better alternatives than the proposed creation of the new CCACO rank and posts.

### **Staff Consultation**

22. Both the Commission Staff Consultative Committee and the Departmental Staff Consultative Committee have been consulted and they welcomed the proposal, since it will create new appointment opportunities for staff.

### **FINANCIAL IMPLICATIONS**

23. The proposed creation of the CFA post and the two new CCACO posts will require an additional notional annual salary cost at mid-point of not exceeding \$1,666,200, and that require for the creation of 2 SFA and 8 FA posts will be \$1,370,640. We have earmarked sufficient provision in the 2011-12 draft Estimates to meet the cost of this proposal.

### **ADVICE SOUGHT**

24. Members are requested to comment on the proposal. Subject to Members' support, we will proceed to submit the staffing proposal to the Establishment Subcommittee and the Finance Committee.

Independent Commission Against Corruption  
November 2010

**Comparison of the Proposed Pay Scale of ICAC Forensic Accountant Grade  
to the Pay Scale of the Treasury Accountant Grade**

<b>Forensic Accountant (FA) Grade</b>	<b>Treasury Accountant (TA) Grade</b>
Chief Forensic Accountant (CFA) IPS 45 : \$102,300 – \$112,050	Chief Treasury Accountant (CTA) D1 : \$99,400 – \$108,650
Senior Forensic Accountant (SFA) IPS 41 – 44a \$83,280 – \$96,885 [5 pay points]	Senior Treasury Accountant (STA) MPS Pt 45 – Pt 49 \$77,375 – \$89,140 [5 pay points]
Forensic Accountant (FA) IPS 26 – 40 \$46,945 – \$80,200 [15 pay points]	Treasury Accountant (TA) MPS Pt 30 – Pt 44 \$42,410 – \$74,675 [15 pay points with 3 omitted points of MPS Pt 32, 36 and 39]

**Proposed Job Description  
Chief Forensic Accountant**

**Rank** : Chief Forensic Accountant (IPS 45)

**Responsible to** : Assistant Director/4

**Major Duties and Responsibilities –**

1. To formulate policies and set standards on the provision of professional advice and support in relation to financial investigation work.
2. To steer the Forensic Accounting Group under his command, advise the implementation of methodologies and establish criteria for use in conducting financial investigation.
3. To ensure effective deployment of resources for the provision of professional advice and support to frontline investigating sections in their investigation of complex corruption cases and related crimes.
4. To supervise the work performed by his subordinates and ensure it meets the required professional standard.
5. To ensure his subordinates comply with the professional requirements of the Hong Kong Institute of Chartered Public Accountants.
6. To give expert evidence in court in complex cases.
7. To monitor any possible reforms within the financial sector with a view to re-engineering existing investigative procedures to keep in pace with latest developments.
8. To advise on the training strategies and training programmes relating to financial investigation for frontline investigators.

**Proposed Job Description  
Senior Forensic Accountant**

**Rank** : Senior Forensic Accountant (IPS 41-44a)

**Responsible to** : Chief Forensic Accountant

**Major Duties and Responsibilities –**

1. To recommend to the Chief Forensic Accountant policies and standards relating to financial investigation work.
2. To supervise a team of Forensic Accountants to ensure professional advice and support of the required standard is given to front line investigators in respect of cases which require the expertise of forensic accounting, in areas of asset or fund tracing, financial data analysis, money laundering and asset recovery, etc.
3. To supervise and/or lead his subordinates when rendering professional advice and support to frontline investigators in field operations in the latter's search and seizure of financial/accounting books and documents in complex corruption cases and related crimes.
4. To review the findings or assessments of his subordinates' examination of books and accounts when evaluating their evidential value.
5. To ensure the standard of work of his subordinates when assisting frontline investigators in the interview of professionals in the financial and accounting related sectors.
6. To ensure his subordinates professionally prepare and present evidence at court.
7. To give expert evidence in court on financial or accountancy related matters.
8. To liaise with the banking, regulatory and financial sectors to keep abreast of trends, practices, and procedures in the commercial and finance industries.
9. To provide training to frontline investigators on financial investigation techniques relating to complex corruption related fraud and the tracing of corrupt proceeds and laundered fund movements.

**Proposed Job Description  
Forensic Accountant**

**Rank** : Forensic Accountant (IPS 26-40)

**Responsible to** : Senior Forensic Accountant

**Major Duties and Responsibilities –**

1. To provide professional financial investigation services to frontline investigating sections.
2. To participate in field operations to provide advice and support to frontline investigators in the search and seizure of financial documents and accounts books of evidential value in relation to complex corruption cases.
3. To examine books of accounts and other documentary evidence seized or obtained in order to evaluate their evidential value.
4. To conduct asset tracing, identify fund movements, prepare financial profiles, analyse and interpret financial data, etc.
5. To assist frontline investigators in the interview of professionals in the financial and accounting sectors in complex corruption investigations and related crimes.
6. To prepare evidence on accounting matters and present financial data at court.
7. To give expert evidence in court on financial or accountancy related matters.
8. To assist in providing training to frontline investigators on financial investigation.

**Proposed Job Description  
Chief Commission Against Corruption Officer /G Group**

**Rank** : Chief Commission Against Corruption Officer (IPS 45)

**Responsible to** : Assistant Director/3

**Major Duties and Responsibilities –**

1. To examine and process all Telecommunications Interception (TI) applications made under the Interception of Communications and Surveillance Ordinance (ICSO), including scrutinize all requests from frontline Principal Investigators for TI operations to ensure compliance with the statutory requirements before submitting his affirmations before one of the three designated Panel Judges (PJ) of the High Court and serve as Commission representative to address queries during hearings before the PJ.
2. To oversee the operation of the intelligence gathering unit which collates intelligence obtained from TI and disseminates it to frontline investigating sections.
3. To consider all applications for Type 2 Surveillance under the ICSO regime as the Authorizing Officer designated within the Operations Department for such applications.
4. To ensure, when considering Type 2 Surveillance applications, that the statutory requirements are fulfilled before approving such applications.
5. To deal with any information which touches upon legal professional privilege in accordance with laid down procedures by reporting it to the PJ and Commissioner on Interception of Communications and Surveillance (C/ICS).
6. To oversee the operation of the Central Registry which was established in accordance with the Code of Practice of the ICSO. The Central Registry is responsible for managing all administrative matters arising from the execution of all authorizations issued under ICSO, including TI, Type 1 and Type 2 Surveillance.
7. To ensure submission of quality weekly reports and statistics to C/ICS to facilitate the discharge of his functions and duties as the Oversight Authority.

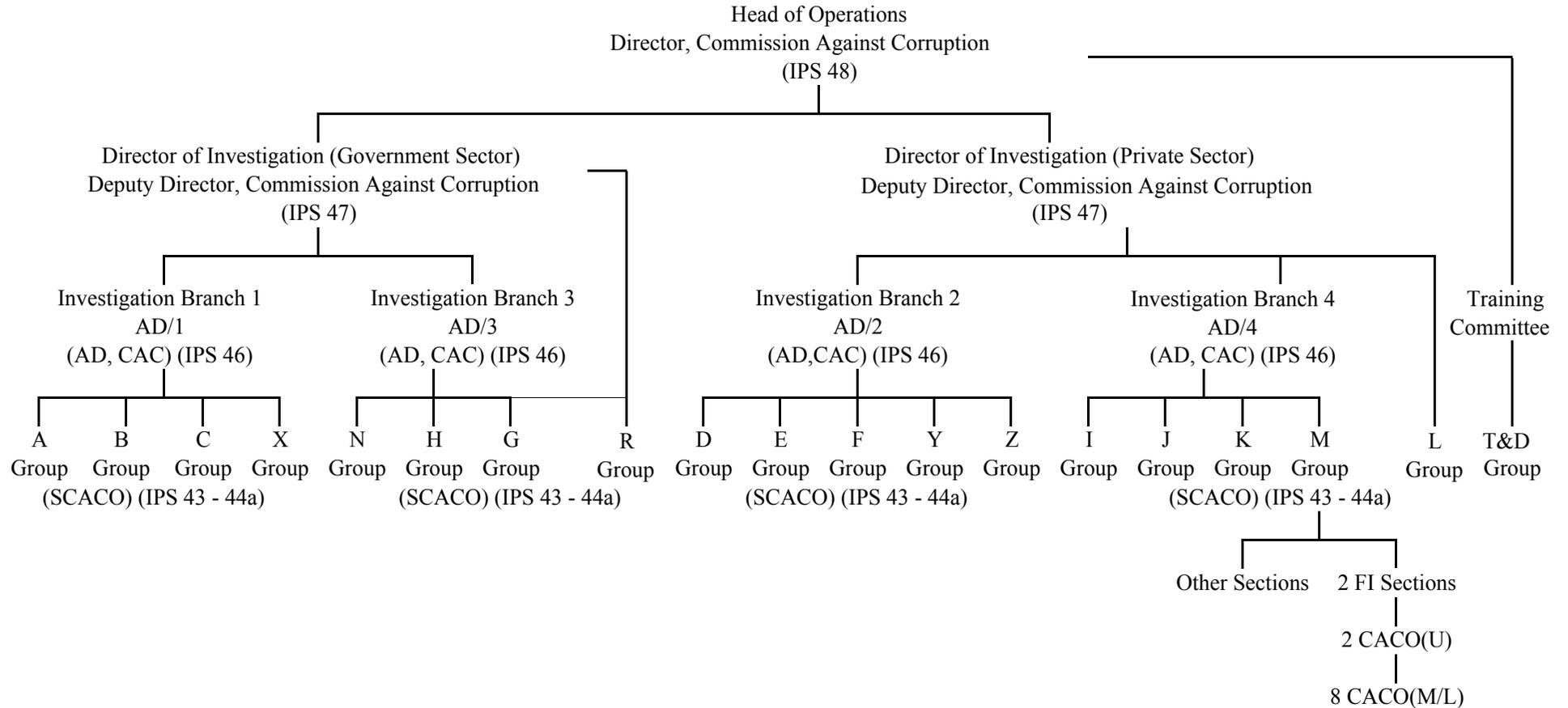
**Proposed Job Description  
Chief Commission Against Corruption Officer /R Group**

- Rank** : Chief Commission Against Corruption Officer (IPS 45)
- Responsible to** : Director of Investigation ( Government Sector) (for inquiries into alleged irregularities/non-compliance cases) and Assistant Director / Branch 3 (for administrative matters)

**Major Duties and Responsibilities –**

1. To ensure compliance, as the Operations Department's Compliance Assurance Officer, of all Telecommunications Interceptions (TI) and Type 1 and Type 2 Surveillance operations undertaken by front line investigation groups under the Interception of Communications and Surveillance Ordinance (ICSO).
2. To assist the Commissioner on Interception of Communications and Surveillance (C/ICS), the Oversight Authority, to oversee compliance under the ICSO and related Code of Practice and to investigate any complaints connected therewith.
3. To oversee the conduct of internal enquiries on non-compliance cases on TI and covert surveillance operations carried out under the ICSO regime.
4. To investigate non-compliance cases, report details of investigations and findings for submission to C/ICS, including making recommendations on such matters as revision of procedures and disciplinary actions.
5. To be accountable to the C/ICS and to address his queries raised during his inspection visits.
6. To advise the senior management on the ways to improve the implementation and compliance of ICSO by such means as refining internal procedures relating to the operation of the ICSO.
7. To advise the senior management on training policy relating to ICSO compliance, administrative procedures and the implementation of applications made under ICSO; and conduct briefings for Principal Investigators (PIs) and their subordinates on such issues; and command all operational PIs and their subordinates to adhere to the Code of Practice.

Existing Organisation Chart of the Operations Department, ICAC



**Legend**

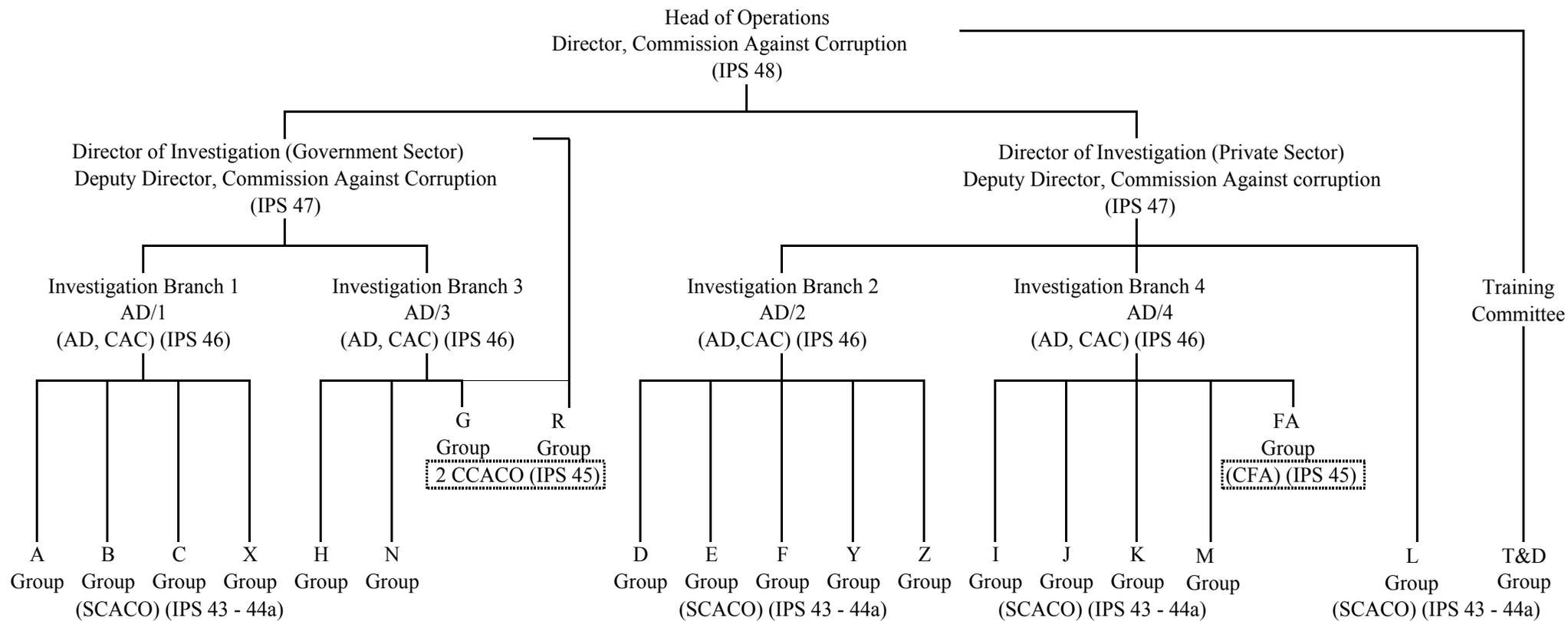
Rank

AD Assistant Director  
 SCACO Senior Commission Against Corruption Officer  
 CACO(U) Commission Against Corruption Officer (Upper)  
 CACO(M/L) Commission Against Corruption Officer (Middle/Lower)

Group

T&D Training & Development  
 FI Financial Investigation

**Proposed Organisation Chart of the Operations Department, ICAC**



**Legend**

Rank

- AD Assistant Director
- CFA Chief Forensic Accountant
- CCACO Chief Commission Against Corruption Officer
- SCACO Senior Commission Against Corruption Officer
- proposed new posts

Group

- FA Forensic Accountant
- T&D Training & Development