

**Subcommittee on  
Professional Accountants (Amendment) Bylaw 2011**

**Hong Kong Institute of Certified Public Accountants' Response**

At the meeting of the Subcommittee on 1 June 2011, Members requested the Hong Kong Institute of Certified Public Accountants (HKICPA) to provide information in addressing their concerns about the security of the voting process at the Institute's Council meetings when it involves voting by ballot through electronic means. Besides, HKICPA were also requested to reflect a number of views/suggestions expressed by Members for consideration by the HKICPA Council. The requested information and the Institute's responses to the views/suggestions expressed by Members are set out in the ensuing paragraphs for Members' information.

**I. Policy and criteria to be adopted in applying voting by ballot at HKICPA Council meetings through electronic means with the passage of the 2011 Amendment Bylaw**

2. We would like to clarify that this Amendment Bylaw is to do with the conduct of the HKICPA's Council meetings (and has nothing to do with general membership elections). Specifically, the effect of the amendment is to enable Council members, who cannot physically attend a meeting of the Council for whatever reason but can attend by electronic means, to be able to vote by secret ballot via a secured on-line voting system.

3. The existing Professional Accountants Bylaw 12(4) specifies that the election of the President and Vice-Presidents of HKICPA (at a Council meeting) shall be determined by ballot. Save for that, there is nothing in the Professional Accountants Ordinance and By-laws prescribing voting by ballot on any matters of the HKICPA Council.

4. After the passage of the 2011 Amendment Bylaw, all Council members present either physically or by electronic means are eligible to cast their votes at the election of the President and Vice-Presidents through a secured electronic voting system.

5. For Council members attending by electronic means, they would be asked to sign an undertaking that they would attend the meeting in a private and secured environment without the presence of any other person and would maintain confidentiality of the meeting proceedings at all times. Before conducting the ballot voting, the convenors will reaffirm with these Council members that these conditions are met.

**II. The existing list of matters for the decision of HKICPA Council which allowed voting (i) by a show of hands; and (ii) by ballot**

6. As mentioned in paragraph 3, the existing Bylaw 12(4) prescribes that the election of President and Vice-Presidents shall be determined by ballot. Other than this, the only matter that Council has decided to vote by ballot in the past two years is the co-option of a Council member (up to two under the Professional Accountants Ordinance). All other matters are to be voted by a show of hands.

**III. Members' attendance at meetings of HKICPA Council after the 2010 Bylaw amendment in terms of (i) those "physically" present, and (ii) those participating remotely through electronic means; and how the situation compares with that before the 2010 Bylaw amendment**

7. Please refer to the list at Annex.

**IV. Members' suggestion to allow interactive participation by candidates standing for the election of the President and Vice Presidents of HKICPA Council, including debate among candidates and question and answer sessions**

**V. Members' suggestion to allow disclosure of the number of votes received by each candidate at the election of the President and Vice Presidents of HKICPA Council**

8. The HKICPA Council welcomes Subcommittee Members' views and suggestions on these matters, and will ask the HKICPA's Governance Review Task Force to consider them and make recommendation to the Council as appropriate.

**VI. Members' suggestion to stipulate requirements for members of the HKICPA Council to use electronic means to participate at meetings and to vote on matters**

9. Under the existing Professional Accountants Bylaw 8(3), a Council member is regarded as being present at a Council meeting if he participates in a meeting by telephone, video conferencing or other electronic means and the others are able to hear him and he is able to hear the others. Given that electronic mode of presence is given equal status to physical presence under the

law, it goes against this principle of equity if we now stipulate limits on one mode of presence as opposed to the other.

10. The Council considers that it is modern commercial practice to enable electronic participation in meetings. Having regard to the pattern of Council members' attendance at previous Council meetings, the Council does not believe that the ability to participate and vote remotely in Council meetings will in any way encourage absenteeism or give rise to the risk of vote manipulation through coercion. The Council therefore considers there is no need to limit the voting by stipulating further conditions.

11. Furthermore, the present Amendment Bylaw, which is very limited in scope and application and relating entirely to the Institute's internal process, has already gone through a proper due process of unanimous approval by the HKICPA Council as well as by HKICPA members at HKICPA's Annual General Meeting (AGM). Council members feel that unless there is a fatal flaw in the Amendment Bylaw that must necessitate some modification, or that the modification is purely textual without changing the intent of the Amendment Bylaw, it has reservation about further amending the Amendment Bylaw which has already been approved by our members.

## **VII. Members' suggestion to relax the requirement for the majority members of HKICPA Council to agree on voting by ballot**

12. It should be noted that it is already provided under Professional Accountants Bylaw 12(4) that in a contested President / Vice Presidents election, the election shall be determined by secret ballot. Therefore, the requirement for the majority members of HKICPA Council to agree on voting by ballot in the new Bylaw 8(4) only applies to matters other than the contested election of President / Vice Presidents.

13. As the HKICPA Council is of the view that secret ballot is not to be encouraged, it is the decision of the Council that secret ballot should only be used with the majority of Council members' approval.

14. It should be noted that the requirement for majority approval of the Council to adopt secret ballot as stipulated in the Amendment Bylaw was approved by both the HKICPA Council and members of HKICPA at its AGM on 17 December 2010.

## Annex

<b>Council Meeting</b>	<b>Attend Phyically</b>	<b>Attend via teleconference</b>	<b>Non Attendance</b>	<b>Total</b>
<b><u>2009</u></b>				
January	19	0	1	20
February	19	0	3	22
March	19	1	2	22
April	19	1	2	22
May	17	1	4	22
June	16	2	4	22
July	17	2	3	22
September	18	1	3	22
October	16	0	6	22
November	21	0	1	22
December	20	1	1	22
December (Special Council Meeting)	19	0	1	20
<b><u>2010</u></b>				
January	19	2	0	21
February	17	0	5	22
March	19	1	2	22
April	20	0	2	22
May	20	1	1	22
June	18	1	3	22
<b>2010 Amendment Bylaw came into force on 1 July 2010</b>				
July	20	0	2	22
September	16	0	6	22
October	20	1	1	22
November	21	0	1	22
December	20	0	2	22
December (Special Council Meeting)	19	0	1	20
<b><u>2011</u></b>				
January	18	0	3	21
February	20	0	2	22
March	17	1	4	22
April	17	0	5	22
May	20	1	1	22