

PROPOSALS TO IMPROVE THE REGULATORY REGIME FOR LISTED ENTITY AUDITORS

優化上市實體核數師 監管制度的建議

Public Consultation

公眾諮詢

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FINANCIAL SERVICES AND THE TREASURY BUREAU
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BACKGROUND

背景

- ◎ Steps taken in mid-2000s to enhance the independence of the auditor regulatory regime

在2000年代中，引進措施以提高核數師監管制度的獨立性

- introduced independent members in the governance as well as the Investigation Committee and Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants (“HKICPA”) in 2004

於2004年在香港會計師公會(“公會”)管治架構以及其調查委員會和紀律委員會內加入獨立成員

- established the Financial Reporting Council (“FRC”) in 2006 for conducting independent investigations into possible irregularities by listed entities

於2006年成立財務匯報局就上市實體可能存在的不當行為進行獨立調查

INTERNATIONAL STANDARDS AND PRACTICES

國際標準和做法

- ◉ Prevailing international standards - auditor regulatory regimes should be independent of the audit profession and be subject to independent oversight by bodies acting in the public interest

現時的國際標準 - 核數師監管制度須獨立於審計業界，並受代表公眾利益的獨立機構監察

- ◉ International Forum of Independent Audit Regulators (“IFIAR”) established in 2006

獨立審計監管機構國際論壇於2006年成立

- ◉ IOSCO’s Objectives and Principles of Securities Regulation and Principles for Auditor Oversight

國際證監會組織的《證券監管的目標及原則》和《核數師監察原則》

- ◉ European Union (“EU”) Statutory Audit Directive - principles for recognising “equivalent status” of third countries’ regulatory regimes

歐洲聯盟的《法定審計指令》 - 認可第三方國家的監管制度為具備等效資格地位的原則

REFORM OBJECTIVES

改革目的

- ◎ To enhance the independence of the existing regulatory regime for listed entity auditors from the audit profession

提高現行上市實體核數師監管制度的獨立性，使之獨立於審計業

- ◎ To ensure that the regime is benchmarked against international standards and continues to be appropriate in the local context

確保制度既符合國際標準，又能切合本地情況

SCOPE AND COVERAGE OF REFORM

改革範圍

- Only concerns listed entity auditors

只涉及上市實體核數師

- Six key regulatory functions

六個主要監管職能

- registration 註冊
- inspection 查核
- setting of continuing professional development (“CPD”) requirements 專業進修規定的制訂
- setting of standards on professional ethics, auditing and assurance 專業道德標準及審計和核證準則的制訂
- investigation 調查
- disciplinary power 紀律處分

PROPOSALS (1) - INTRODUCTION OF AN INDEPENDENT OVERSIGHT BODY FOR THE REGULATION OF LISTED ENTITY AUDITORS

引入獨立監察機構監管上市實體核數師

- Independent auditor oversight body to be vested with following functions/powers in respect of listed entity auditors

獨立核數師監察機構將獲賦予以下有關上市實體核數師的職能/權力

- inspection 查核
- investigation 調查
- disciplinary power 紀律處分

- Subject to independent oversight of independent auditor oversight body, HKICPA to perform/exercise following statutory functions/powers in respect of listed entity auditors

在獨立核數師監察機構的獨立監察下，公會將履行/行使以下有關上市實體核數師的法定職能/權力

- registration 註冊
- setting CPD requirements 專業進修規定的制訂
- setting standards on professional ethics, auditing and assurance 專業道德標準及審計和核證準則的制訂

- FRC to be the independent auditor oversight body

財務匯報局為獨立核數師監察機構

PROPOSALS (2) - INDEPENDENT OVERSIGHT MODEL 獨立監察模式

- In respect of HKICPA's three statutory functions/powers, FRC will

就公會的三項法定職能/權力，財務匯報局將

- receive periodic reports from HKICPA on performance/exercise of relevant functions/powers

收取公會就履行/行使有關職能/權力定期提交的報告

- conduct quality review on HKICPA in respect of performance/exercise of such functions/powers

對公會如何履行該等職能及行使該等權力進行質量審核

- upon being satisfied that it is in the public interest to do so, give HKICPA written directions in relation to performance/exercise of such functions/powers

在信納符合公眾利益的情況下，向公會發出關於履行該等職能及行使該等權力的書面指示，而公會須在收到書面指示後按指示行事

- FRC will not be involved in HKICPA's day-to-day operation

財務匯報局將不會參與公會的日常運作

PROPOSALS (3) - REGISTRATION OF LISTED ENTITY AUDITORS

註冊上市實體核數師

- ◎ HKICPA shall perform the role of the Registrar of listed entity auditors

香港會計師公會將擔任上市實體核數師註冊主任

- ◎ A new register of listed entity auditors will be established

設立新的上市實體核數師註冊紀錄冊

- ◎ No material change to the existing entry requirements for a registered listed entity auditor

現時成為上市實體核數師的資格規定基本不變

PROPOSALS (4) - INSPECTION OF LISTED ENTITY AUDITORS 查核上市實體核數師

- FRC to be responsible for conducting recurring inspections of listed entity auditors in respect of their listed entity audit engagements

財務匯報局負責定期查核上市實體核數師為上市實體執行的審計項目

- Will not affect HKICPA's existing statutory function of conducting inspections of non-listed entity auditors, or listed entity auditors in respect of their non-listed entity audit engagements

不會影響香港會計師公會查核非上市實體核數師以及上市實體核數師為非上市實體執行的審計項目的現有法定職能

PROPOSALS (5) - SETTING OF CPD REQUIREMENTS AND PROFESSIONAL ETHICS, AUDITING AND ASSURANCE STANDARDS

專業進修規定以及 專業道德標準及審計和核證準則的制訂

- ◎ HKICPA will continue to perform/exercise existing statutory functions/powers in setting CPD requirements and professional ethics, auditing and assurance standards

公會繼續履行/行使現有法定職能/權力，制訂專業進修規定以及專業道德標準及審計和核證準則

PROPOSALS (6) - INVESTIGATION 調查

- ◎ FRC to continue to be responsible for conducting independent investigations into relevant irregularities by listed entity auditors

財務匯報局將繼續負責對上市實體核數師的有關不當行為進行獨立調查

PROPOSALS (7) - DISCIPLINARY SYSTEM

紀律處分制度

◎ Proposals 建議

- FRC to be vested with disciplinary powers
賦予財務匯報局進行紀律處分的權力
- appropriate range of sanctions
適當的紀律處分權力
- appropriate checks and balances
適當的制衡措施

PROPOSALS (7) - DISCIPLINARY SYSTEM

紀律處分制度 (CONT'D)

- appropriate checks and balances 適當的制衡措施

- principle of fairness and proportionality 公平及相稱原則

- due process 程序公義

- reasonable opportunity to be heard 給予合理機會作出陳詞

- investigative/inspection staff not to be involved in disciplinary process and determination of disciplinary sanctions

調查或查核人員不會參與紀律處分程序及就紀律處分作出決定

- guidelines on power to impose pecuniary penalty (nature and seriousness of the irregularity; amount of profits accrued or loss avoided as a result of the irregularity; audit fees earned by the listed entity auditor; size and financial resources of the firm or individual; and the penalty should not have the likely effect of putting a firm or individual in financial jeopardy, etc.)

說明如何施加罰款的指引 (不當行為的性質和嚴重程度；因不當行為而累算的利潤或避免的損失數額；有關的上市實體核數師所收取的審計費用；有關事務所/人士的公司規模/財政資源；以及罰款額不應可能令有關事務所/人士拮据財困等)

- Proposed disciplinary system has been well-tested in Hong Kong's financial market and which relevant stakeholders are familiar with

擬議紀律處分制度已為香港金融市場所用且為相關持分者所熟悉

PROPOSALS (8) - INDEPENDENT APPEAL MECHANISM 獨立的上訴機制

- New independent appeals tribunal to be set up by statute for hearing appeals in respect of disciplinary decisions and registration decisions

新的法定獨立上訴審裁處負責覆核與紀律決定及註冊決定有關的上訴

- comprise a chairman, who should be a person qualified for appointment as a judge of the High Court, and two members who are not public officers

由一名合資格獲委任為高等法院法官的人士擔任主席，及兩名為非公職人員的成員組成

- relevant disciplinary/registration decision will not take effect before the appeal is determined by the independent appeals tribunal

有關紀律處分決定/註冊決定不會在獨立上訴審裁處未有裁定前生效

PROPOSALS (9) - FUNDING MECHANISM

財政機制

◎ Relevant considerations 相關考慮因素

■ “user pays” principle

“用者自付”原則

■ principle that auditor oversight body should be operationally and financially independent of the Government, without subsidy from general taxpayers

核數師監察機構的日常運作及財政安排應獨立於政府的原則，不須由一般納稅人補貼

◎ Proposal 建議

■ levies on an equal basis

同等份額的徵費

(a) listed entities 上市實體

(b) securities transactions 證券交易

(c) listed entity auditors 上市實體核數師

PROPOSALS (10) - GOVERNANCE OF FRC

財務匯報局的管治

◎ Proposals 建議

- not less than seven members appointed by Chief Executive, with Chief Executive Officer of FRC as ex officio member

須由不少於七名由行政長官委任的成員組成，而財務匯報局的行政總裁為當然成員

- at least two of them possess knowledge of and experience in auditing of Hong Kong listed entities

當中最少有兩人具備審計上市實體財務報告的知識及經驗

PROPOSALS (10) - GOVERNANCE OF FRC

財務匯報局的管治 (CONT'D)

◎ Change from “lay person” to “non-practitioners”

由“業外人士”改為“非執業人士”

- “a person who is not, and has not during the previous three years been, a CPA (practising) or a partner, director, agent or employee of a practice unit”

“現時或過去三年並非執業會計師或並非任何執業單位的合伙人、董事、代理人或僱員的人”

- instead of “a person who is not a CPA within the meaning of the Professional Accountants Ordinance or a member of an accountancy body that is a member of International Federation of Accountants.”

而非“《專業會計師條例》所指的會計師，或並非屬國際會計師聯會成員的會計團體的會員”

PUBLIC CONSULTATION

公眾諮詢

- ◎ Consultation Period 諮詢期

20.6.2014 - 19.9.2014

- ◎ Consultation Document 諮詢文件

http://www.fstb.gov.hk/fsb/ppr/consult/consult_rpirrlea.htm (English)

http://www.fstb.gov.hk/fsb/chinese/ppr/consult/consult_rpiarrlea.htm (中文)

- ◎ Public Forums 公眾諮詢會

- ◎ Continue stakeholders engagement 繼續與持份者溝通

- ◎ Target Timetable 時間表