

PROPOSALS TO IMPROVE THE REGULATORY REGIME FOR LISTED ENTITY AUDITORS

Consultation Conclusions

優化上市實體核數師 監管制度的建議

諮詢總結



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REFORM OF REGULATORY REGIME FOR LISTED ENTITY AUDITORS 上市實體核數師監管制度改革

◎ Reform Objectives 改革目的

- To enhance the independence of the existing regulatory regime for listed entity auditors from the audit profession with a view to ensuring that the regime is benchmarked against international standards and practices

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，並確保制度符合國際標準和做法

◎ Public Consultation Period 公眾諮詢期

- 20.6.2014 - 19.9.2014

OUTCOME OF THE CONSULTATION

諮詢結果

- Overwhelming support for the objective and direction of the reform

改革的目的和方向獲絕大部分回應者支持

- The Government has refined and elaborated on relevant proposals in light of the detailed comments received

因應所收到的具體意見，政府已就相關建議作出修訂和闡釋

- As the first step, the reform will cover listed entity auditors only

作為第一步，改革只涵蓋上市實體核數師的監管制度

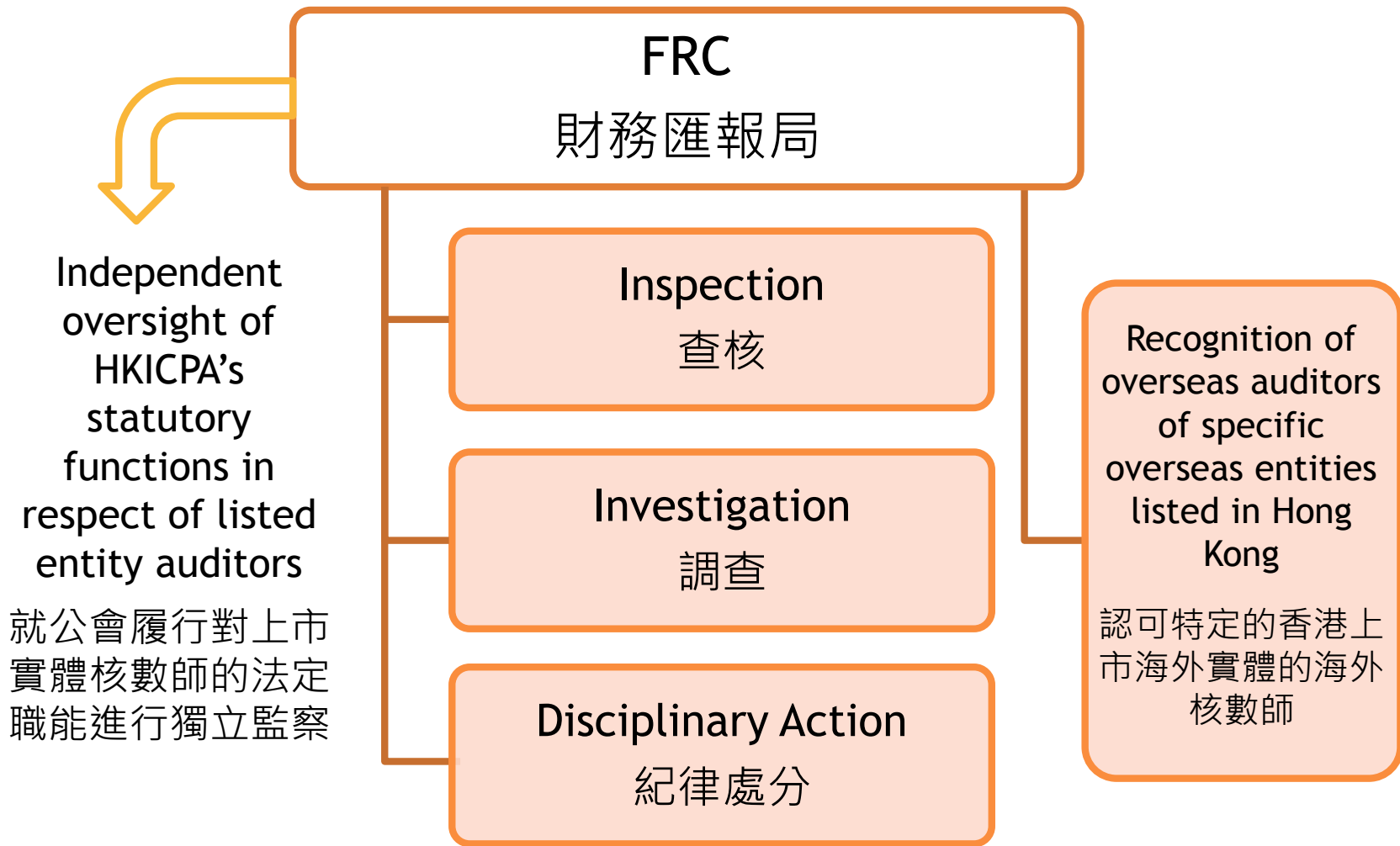
THE NEW REGIME FOR LISTED ENTITY AUDITORS

就上市實體核數師的新監管制度



THE NEW REGIME FOR LISTED ENTITY AUDITORS (CON'D)

就上市實體核數師的新監管制度 (續)



INDEPENDENT OVERSIGHT MODEL

獨立監察模式

- ◎ In respect of HKICPA's statutory functions/powers in the registration of listed entity auditors, setting of CPD requirements and setting of standards on professional ethics, auditing and assurance in respect of listed entity auditors -

就公會對有關上市實體核數師註冊、專業進修規定的制訂和專業道德標準及審計和核證準則的制訂的法定職能/權力：

- (i) HKICPA shall submit periodic reports on its performance/exercise of the relevant functions/powers to FRC

公會須就其履行及行使有關職能/權力定期向財務匯報局提交報告

- (ii) FRC shall conduct quality reviews on HKICPA in respect of the latter's performance/exercise of such functions/powers

財務匯報局須對公會就其履行該等職能及行使該等權力進行質量審核

INDEPENDENT OVERSIGHT MODEL (CON'D)

獨立監察模式 (續)

- (iii) FRC may, upon being satisfied that it is in the public interest to do so, give HKICPA written directions in relation to the performance/exercise of such functions/powers, and HKICPA shall be obliged to act on such written directions

財務匯報局可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，而公會須按書面指示行事

- (iv) FRC will be empowered to require information from HKICPA in respect of the three areas subject to its independent oversight, and HKICPA shall be obliged to provide such information to FRC

財務匯報局有權就其獨立監察的三個範疇內的事宜向公會索取資料，而公會須向財務匯報局提交有關資料

- (v) FRC shall publish its own reports to inform public of the implementation of the independent oversight arrangements

財務匯報局須發表公開報告，讓公眾知悉落實獨立監察安排的情況

REGISTRATION

註冊

- ◎ No change to the prevailing qualification and experience requirements for being a listed entity auditors

不會因推行改革而改變有關成為上市實體核數師所須符合的資格及經驗規定

- ◎ Eligible auditors can be registered before accepting any listed clients

合資格核數師可在接納上市實體客戶前註冊

REGISTRATION (CON'D)

註冊 (續)

- The practice unit for listed entity audit engagement and the following three types of individuals in respect of the practice unit shall be subject to registration -

為上市實體執行審計項目，有關的執業單位和其以下三類人士須獲註冊：

- (i) audit engagement authorised persons

審計項目的獲授權人

- (ii) engagement quality control reviewers

對審計項目進行質量控制審核的人

- (iii) quality control system responsible person

質量控制系統的負責人

- Each listed entity auditor shall designate at least one responsible person from its managing board of partners/CEO to be in charge of quality control of its audit engagements in respect of listed entities

各上市實體核數師須從其合夥人管理委員會/行政總裁當中指派最少一人為負責人，主管其上市實體審計項目的質量控制事宜

- A new register of listed entity auditors for public inspection

公會須備存一份新的上市實體核數師紀錄冊供公眾查閱

INSPECTION

查核

- FRC will 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

- (i) Proper safeguard to FRC's exercise of power to enter into business premises at any reasonable time for inspections - only for ascertaining compliance

對財務匯報局在行使任何合理時間均可進入業務處所進行查核的權力，提供適當制衡 - 只可以是為查明有關的遵從事宜

- (ii) Statutory defence of “reasonable excuse” for non-compliance with FRC's requirements in relation to inspections

對不遵從財務匯報局就查核方面所施加的要求引入「合理辯解」的法定免責辯護

- (iii) FRC shall not delegate its inspection power to HKICPA

財務匯報局不可將查核的權力轉授予公會

INVESTIGATION AND DISCIPLINARY MECHANISM

調查和紀律處分機制

Investigation 調查

- FRC will continue to be responsible for investigation into irregularities by listed entity auditors

財務匯報局將繼續負責對上市實體核數師的不當行為進行調查

Disciplinary Mechanism 紀律處分機制

- Key principles 主要原則

- (i) FRC as the independent oversight body may exercise disciplinary powers directly

作為獨立監管機構，財務匯報局可直接行使紀律處分權力

- Not an international standard requiring that the disciplinary powers must be vested with a body independent of the independent auditor regulator

國際標準並無規定須把紀律處分權力賦予獨立於獨立核數師監管機構的組織

- (ii) The disciplinary mechanism should be independent of the audit profession

紀律處分機制應獨立於審計業界

DISCIPLINARY MECHANISM (CON'D)

紀律處分機制(續)

- ◎ Detailed requirements in respect of quality control system responsible persons -
就有關質量控制系統負責人的詳細要求：
 - (i) The responsible person shall use best endeavours to ensure that the listed entity auditor has established policies and procedures for maintaining a quality control system in respect of listed entity audit engagements and to secure observance
負責人須盡最大努力確保上市實體核數師已制定政策和程序，維持上市實體審計項目的質量控制系統；及確保有關政策和程序得到遵從
 - (ii) The responsible person will be subject to disciplinary actions if he has contravened the relevant statutory requirements
如果負責人違反有關的法定規定，會面臨紀律行動
- ◎ The maximum pecuniary penalty is HK\$10 million or three times the amount of profit gained/loss avoided as a result of the irregularity, whichever is higher
最高罰款額為港幣一千萬元或因不當行為而獲取的利潤金額/避免損失金額的三倍，以金額較大者為準
 - FRC shall issue guidelines on how it may impose a pecuniary penalty, which should include relevant factors, e.g. the penalty should not put the auditor into financial jeopardy
財務匯報局須就如何施加罰款發出指引，考慮的有關因素包括罰款額不應令該核數師拮据財困

DISCIPLINARY MECHANISM (CON'D)

紀律處分機制(續)

- Ensuring fairness and due process
確保公平和程序公義
 - (i) Investigative/inspection staff will not 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
 - (ii) FRC shall issue guidelines on the exercise of its power to impose pecuniary penalty 財務匯報局須就其行使施加罰款的權力發出指引
 - (iii) FRC shall give the person concerned a reasonable opportunity of being heard, including written or oral representation, before exercising disciplinary powers 財務匯報局在行使紀律處分權力前，須給予有關人士合理的陳詞機會，包括作出書面或口頭申述
 - (iv) FRC will be empowered to establish an expert panel with members having audit expertise to provide advice upon request on the application of relevant audit standards, related practices of the audit profession or experiences in previous cases of similar nature 財務匯報局會獲賦權成立具備審計專業知識成員的專家小組，在該局要求下，就審計準則的應用、審計專業的相關執業事宜或過往處理類似性質個案的經驗，向該局提供意見
 - (v) We will consider the desirability and appropriateness of giving any formal role to persons independent of FRC and the audit profession in the disciplinary mechanism 我們會考慮是否適宜讓獨立於財務匯報局和審計業界的人士參與該局的紀律處分機制
 - (vi) Any person who is aggrieved by a disciplinary decision made in respect of him by FRC may appeal against the decision through an independent appeals mechanism 任何因財務匯報局對其所作出的紀律處分決定而感到受屈的人可藉獨立上訴機制，就該項決定提出上訴

COMPOSITION OF FRC

財務匯報局的組成

- Not less than seven members appointed by the Government, with at least two of them possess knowledge of and experience in auditing of Hong Kong listed entities

須由不少於七名由政府委任的成員組成，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

- Majority of members should be “non-practitioners” (a relaxation as compared with the existing requirement that a majority of members should be “lay persons”)

大部分成員須為「非執業人士」（放寬現時須大部分成員為「業外人士」的規定）

- Appointment of Executive Directors to FRC by the Government, subject to a majority of non-executive members

在大部分成員須為非執行董事的前題下，政府可委任執行董事為財務匯報局成員

FUNDING MECHANISM

財政機制

- ◎ Key Principles 主要原則
 - (i) “user pays” principle
「用者自付」原則
 - (ii) The auditor oversight body should be operationally and financially independent of the Government, without subsidy from 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，不應由納稅人補貼
- ◎ Levies on (by roughly equal contribution) - 徵費 (大致同等份額) :
 - (i) listed entity auditors 上市實體核數師
 - (ii) securities transactions 證券交易
 - (iii) listed entities 上市實體

NEXT STEPS

下一步工作

- ◎ To prepare the Amendment Bill
擬備修訂條例草案
- ◎ To continue stakeholders engagement
繼續與持份者溝通
- ◎ Legislative Timetable 立法時間表
 - Introduction of the amendment bill into the Legislative Council in the 2016-17 legislative session
在二零一六至二零一七年度立法會會期，向立法會提交修訂條例草案

ENDS
完