

Statement by Chief Executive, HKICPA, at the Bills Committee on the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 and Companies (Amendment) Bill 2017, 30 October 2017

Good afternoon. Thank you for inviting the Hong Kong Institute of Certified Public Accountants to address the committee.

The Institute is the only body authorised by law to register, regulate and grant practising certificates to certified public accountants in Hong Kong. A practising certificate is required in order to provide statutory auditing services in Hong Kong. The Institute has more than 42,000 members

The Institute is in support of the introduction of legislation to prescribe anti-money laundering, or AML, requirements for "designated non-financial businesses and professions", in order to minimise the risk of abuse of Hong Kong's financial system by money launderers or terrorists.

In anticipation of the Bill, the Institute has already drawn up draft AML guidelines and consulted our members on them. The guidelines will be part of our enforceable Code of Ethics, and non-compliance with them may result in the Institute taking disciplinary actions against Institute members and/or CPA firms. The guidelines will be finalised once the detailed provisions of the Bill have been finalised.

I will mention a few of the key points from our submission on the Bill:

1. Under the proposed new section 5A(3) of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance, Institute members and CPA practices will be regulated by the Institute when they prepare for or carry out transactions for clients in relation to certain specified services.
2. We understand from our discussions with the government that it is sufficient for the Institute to respond to complaints against CPAs and CPA practices and that there is currently no obligation to proactively monitor compliance by our members with the proposed AML requirements. We will have a clearer understanding whether this approach is sufficient to meet the Financial Action Task Force's expectations after the mutual evaluation on Hong Kong has been conducted in late 2018.
3. The AML requirements relating to the accounting profession in the Bill will apply only to our members. Therefore, other people, including overseas qualified accountants working in Hong Kong, will not be regulated for AML when they provide the same services, i.e., any of the services referred to in section 5A(3)(a) – (f). This could result in a regulatory and expectation gap.
4. It is our understanding that the regulation of licensed trust or company service providers operated by CPAs will be shared between the Registrar

of Companies and the Institute. The Registrar may take action against the corporate entity itself and refer cases of non-compliance relating to individual CPAs to the Institute for handling. Details of the shared regulatory arrangements between the Institute and the Administration will need to be developed.

5. The existing ordinance was drawn up with financial institutions in mind and caters specifically for the circumstances of FIs. We would prefer to see tailor-made AML legislation for DNFBPs, but consider that the proposed approach of extending the ordinance to cover DNFBPs should be workable, as long as sufficient clarity and adjustments relating to concepts, terminology and scope are provided.

Regarding the Companies (Amendment) Bill 2017, we are, in general, supportive of the aims of this bill, which will enhance the transparency of company ownership and control.

I will highlight just two of the points raised in our submission on this bill:

1. Instead of, or in addition to, each individual company keeping its own register of persons with significant control, we believe that in the long run, Hong Kong should have a central database of registers of persons with significant control to ease information access and help ensure the accuracy of the information.

2. We suggest that Government consider extending access to these registers to DNFBPs regulated for AML, to facilitate them in discharging their customer due diligence obligations.

Thank you