

**For information
on 4 May 2020**

Legislative Council Panel on Financial Affairs

**Rules Relating to Registration of Determinations and Orders of
Public Interest Entities Auditors Review Tribunal**

PURPOSE

This paper informs Members of the proposal to make rules relating to the registration of determinations and orders of the Public Interest Entities Auditors Review Tribunal (“the Rules”) under section 37ZJ(b) of the Financial Reporting Council Ordinance (Cap. 588) (“FRCO”) to provide for matters relating to the registration of a determination or order of the Public Interest Entities Auditors Review Tribunal (“PIEART”) in the Court of First Instance (“CFI”) pursuant to section 37ZB of the FRCO.

BACKGROUND

2. The Financial Reporting Council (Amendment) Ordinance 2019 (“the Amendment Ordinance”) was enacted by the Legislative Council (“LegCo”) on 30 January 2019 and came into effect on 1 October 2019¹. The Amendment Ordinance enables the Financial Reporting Council (“FRC”) to become a full-fledged and independent oversight body regulating auditors of public interest entities (“PIE”)², and be responsible for the inspection, investigation and disciplinary functions with regard to PIE auditors. The FRC is also responsible for the recognition of overseas PIE auditors. Meanwhile, the Hong Kong Institute of Certified Public Accountants (“HKICPA”) continues to perform the statutory functions of registration, setting requirements for continuing professional development, and prescribing standards on professional ethics, auditing and assurance in respect of local PIE

¹ Except for sections 62 and 85 which will be separately commenced on 1 January 2022. Section 62 provides for the payment of levies to the FRC and related issues. Section 85 sets out the calculation methods of the said levies.

² PIEs refer to corporations with issued shares or stocks listed in Hong Kong or collective investment schemes with interests listed in Hong Kong

auditors, subject to oversight by the FRC.

3. Upon the commencement of the Amendment Ordinance, the PIEART was established pursuant to part 3C of the FRCO with jurisdiction to review and make determination on a review of any of the following specified decisions –

- (a) decisions of the HKICPA relating to registration of local PIE auditors;
- (b) decisions of the FRC relating to recognition of overseas PIE auditors; and
- (c) disciplinary decisions of the FRC.

4. Pursuant to section 37T of the FRCO, the PIEART may determine a review in relation to a specified decision by—

- (a) confirming, varying or setting aside the decision; or
- (b) remitting the matter in question to the decision authority (i.e. the FRC or the HKICPA as the case may be) with any direction it considers appropriate.

There are also other provisions under which the PIEART may issue an order (e.g. costs order) in relation to a review. As at 31 March 2020, no application for review has been received by the PIEART.

PROPOSAL

5. Section 37ZJ(b) of the FRCO provides that the Chief Justice (“CJ”) may make rules providing for matters relating to the registration by the CFI of determinations or orders of the PIEART under section 37ZB. Section 37ZB of the FRCO reads –

“(1) The Court of First Instance may, on written notice given by the [Public Interest Entities Auditors Review] Tribunal in the way prescribed by rules made by the

Chief Justice under section 37ZJ, register a determination or order of the [Public Interest Entities Auditors Review] Tribunal.

(2) *A determination or order so registered is to be regarded, for its enforcement, as a determination or order of the Court of First Instance made within its jurisdiction.”*

6. As the notice under section 37ZB(1) is to be given by the PIEART “*in the way prescribed by rules made by the Chief Justice under section 37ZJ*”, we propose that the CJ makes the relevant Rules under section 37ZJ(b) of the FRCO. We also propose to specify in the Rules that the PIEART shall, for the purpose of giving notice in respect of a determination or order pursuant to section 37ZB of the FRCO, produce to the Registrar of the High Court a notice in writing in a prescribed form, so as to provide certainty and facilitate the Court in registering a PIEART determination or order.

7. The Judiciary has been consulted, and the above proposal has incorporated the Judiciary’s views.

WAY FORWARD

8. We aim to table the Rules before LegCo in May 2020 for negative vetting.

9. Members are invited to note the proposal.

Financial Services and the Treasury Bureau
April 2020