

**For discussion
4 April 2022**

Legislative Council Panel on Financial Affairs

**Revising the Election Arrangements of the Council of
the Hong Kong Institute of Certified Public Accountants**

PURPOSE

The Government proposes to amend the Professional Accountants Ordinance (Cap. 50) (“PAO”) and the Professional Accountants By-laws (Cap. 50A) (“PA By-laws”) for revising the election arrangements of the Council of the Hong Kong Institute of Certified Public Accountants (“HKICPA”) and making other technical changes in order to facilitate the HKICPA’s performance of its professional functions under the new regulatory regime of the accounting profession as well as to enhance the administrative efficiency and effectiveness of the HKICPA in the conduct of elections and general meetings. This paper seeks Members’ views on the proposed amendments.

BACKGROUND

2. The Legislative Council passed the Financial Reporting Council (Amendment) Bill 2021 in October 2021 to enhance the regulatory regime of the accounting profession in Hong Kong. Under the new regime, major regulatory functions and powers¹ will be transferred from the HKICPA to the Financial Reporting Council (“FRC”) for independent regulation, and the FRC will be renamed as the Accounting and Financial Reporting Council (“AFRC”) accordingly. Meanwhile, the HKICPA will continue to be responsible for conducting professional examinations, registering certified public accountants (“CPAs”), setting standards on professional ethics, accounting, auditing and assurance, setting continuing professional development (“CPD”) requirements for the accounting profession, and providing training for persons qualified to be registered as CPAs as well as CPD training for CPAs. The relevant functions of the

¹ These functions and powers include the issuance of practising certificates, registration of practice units and public interest entities (“PIE”) auditors, inspection of practice units, and investigation and discipline over practice units and CPAs.

HKICPA will be subject to the AFRC's oversight.

3. During the run-up to the implementation of the new regime, some members of the accounting professional bodies raised concerns about the governance effectiveness and election method of the HKICPA Council. In response, the Government collected views from major accounting professional bodies and their representatives on various occasions from January to March this year. Based on the views collected, it is generally considered that appropriate amendments should be made to the existing election method of the HKICPA Council so that the HKICPA could adjust to its professional functions more effectively under the new regulatory regime of the accounting profession and establish an institutional linkage with the AFRC under the new regime. In particular, some consider that the current nomination requirements and threshold for Council elections are too low to ensure the possession of sufficient professional knowledge as well as a good understanding of the sector by the elected Council members. The sector is also concerned about the trend of politicisation in Council elections in recent years, since deviations from professionalism is detrimental to the professional image of the Hong Kong accounting sector. In addition, some opine that the annual election cycle has taken up too much resources and attention of the HKICPA, making it difficult for the Council to focus on professional matters.

4. In the light of the above concerns, the accounting sector hopes that the election mechanism of the HKICPA Council could be reviewed and enhanced during the transition to the new regime. Various proposals have been put forward, including allowing more representatives of different segments of the profession to join the Council and enhancing the role and function of co-opted Council members and lay members. In regard to the nomination threshold, it is proposed that the number of nominations from HKICPA members required for candidates to stand for election should be increased, and that such candidates should be required to obtain nominations from other key stakeholders of the profession other than the HKICPA members, so as to better ensure that these candidates can fulfil the expectations of the sector and relevant stakeholders. Some members of the profession also hope that additional basic requirements could be imposed on candidates, such as experience in assisting in Council affairs, specific professional background as well as good ethical conduct. Some are of the view that consideration should be given to the establishment of a nomination vetting committee comprising key stakeholders of the accounting profession to vet the qualifications of candidates and examine if they are fit for performing the HKICPA's statutory functions.

5. As regards the election cycle for elected Council members, it is proposed that the election cycle for the 14 elected Council members should be aligned from an annual cycle to a biennial cycle so as to spare the HKICPA from spending tremendous resources on holding Council re-election every year, or that the term of office of elected Council Members should be extended from two to four years to enhance the stability in membership during the tenure of the Council members. The annual re-election of the President and Vice-Presidents may have to be adjusted accordingly as well.

6. Besides, the HKICPA has been from time to time reviewing its administrative procedures as stipulated in the PA By-laws with proposed amendments to increase its administrative efficiency. According to the HKICPA, as the existing requirements on the procedures of general meetings stipulated in the PA By-laws do not permit the conduct of meetings in online or hybrid (i.e. physical and virtual) mode, operational difficulties have arisen during the COVID pandemic. Hence, there is a need to amend the legislation to provide flexibility in this respect. Moreover, the Council election timeline laid down in the PA By-laws has to be adjusted as appropriate to allow sufficient time for the executive team to properly complete the various election procedures.

LEGISLATIVE PROPOSAL

7. Having carefully considered the views and proposals of the accounting sector, we agree that there is a need to review the election mechanism of the Council and the relevant administrative procedures, so as to ensure that the Council possesses a sufficient level of professionalism and representation in supporting the HKICPA to perform its role under the new regulatory regime and serve as an important communication conduit between the AFRC and the sector.

8. When considering the specific proposals made by the sector, we are mindful that the proposed changes to the Council election arrangements at this stage should be conducive to the HKICPA's performance of its role under the new regulatory regime without creating unnecessary burden on the institute, and that the enhanced institutional linkage between the HKICPA and the AFRC should not undermine the AFRC's independence, or the HKICPA's capacity in handling professional matters. Moreover, the changes should be acceptable to the key stakeholder representatives of

the profession for effective implementation. Based on the above principles, we propose to amend the legislation in the following three aspects:

- (a) raising the nomination threshold for election to the Council;
- (b) aligning the election cycle for the 14 elected Council members from an annual cycle to a biennial cycle; and
- (c) enhancing the administrative procedures of the HKICPA.

Nomination threshold for election to the Council

9. As stipulated in the PA By-laws on the nomination requirements for candidates for election to the Council, a CPA who is a candidate for election as an elected Council member shall be nominated by two CPAs (one as the proposer and the other as the seconder). Given the fact that the HKICPA has a membership of over 40 000 CPAs, the threshold of securing only two CPA nominations is too low. To increase the representation of candidates, we propose to raise the number of CPA nominations to be obtained by a candidate from the current two to 10.

10. Under the new regulatory regime of the accounting profession, the AFRC and the HKICPA should maintain a close working relationship in order to promote effective regulation and further development of the profession. To ensure the AFRC's independence from the profession in performing its regulatory functions, it is stipulated in the law that the decision-making Board of the AFRC must not include accounting practitioners. During the legislative amendment exercise in 2021, we proposed to establish an Advisory Committee under the AFRC. Apart from the Chairman, the Chief Executive Officer and not more than two executive directors of the AFRC, the Advisory Committee will also comprise eight to 12 other persons to be appointed by the Financial Secretary in consultation with the AFRC, including practitioners, service users and other stakeholders of the accounting sector. The Advisory Committee will advise the AFRC on policy matters concerning the latter's regulatory objectives and functions. While the Advisory Committee does not have decision-making power, it will serve as a conduit between the

AFRC and the accounting sector and will assist the AFRC in formulating regulatory approach that caters to the development needs of the profession.

11. We consider that the Advisory Committee may also serve as an important conduit in HKICPA Council elections. We propose to require that a candidate for election to the Council should obtain nominations from two members of the Advisory Committee who are not from the AFRC management. This will not only motivate candidates of the HKICPA Council election to explain their election platforms to the Advisory Committee members for securing their nominations, but also encourage CPAs with serious professional aspirations to stand for election. During the process, the Advisory Committee members can also better understand the concerns of the accounting sector and the work priorities of the new term of the HKICPA Council, and hence effectively relay the sector's views to the AFRC for formulation of regulatory policies without prejudice to the independence of the AFRC.

12. We have considered whether to require candidates for election to the Council to obtain nominations from other bodies or persons related to the accounting profession. We believe that confining the scope of nomination requirements to members of the relevant statutory bodies (i.e. members of the Advisory Committee under the AFRC and registered members of the HKICPA) under the accounting regulatory regime can better ensure that the professional role of the HKICPA Council will not be subject to the influence of political factors. We have also carefully considered whether to adopt the suggestion of establishing a nomination vetting committee to vet the qualifications (including the professional and ethical conduct) of candidates. The enhanced nomination requirements proposed in this paper should be able to effectively discourage frivolous or unprofessional candidates from standing for election, and hence allow the HKICPA members to elect, through a fair and transparent voting system, competent candidates as Council members to serve the profession. In handling the annual renewals of CPA registration, the HKICPA will assess whether the CPA concerned meets the "fit and proper" requirements by taking into account, inter alia, his/her integrity and criminal record (if any). We consider that the measures in place are adequate and there is no need to impose additional requirements on candidates for election to the Council. In view of the above, we do not see the case for establishing a

nomination vetting committee at this stage.

13. We plan to add a new schedule to the PAO stipulating the nomination requirements as proposed above, and to empower the Secretary for Financial Services and the Treasury to amend the schedule through the negative vetting procedure in the future.

Election cycle for elected Council members

14. At present, an elected HKICPA Council member holds office for two years and seven elected members will retire from office every year. The HKICPA will hold Council election every November and December to fill the seven vacancies.

15. To address the frequent changes in Council membership as a result of the unduly short election cycle for elected Council members, we propose to align the election cycle for the 14 elected Council members to a biennial cycle, with 14 members to be elected each time and their term of office remaining unchanged at two years. The new arrangement will not only spare the HKICPA and the Council from spending resources on holding Council election every year, but also ensure stability in membership during the two-year tenure of the Council members, thereby facilitating the Council's continuous delivery of its work priorities. Hence, it is easier for the HKICPA members to, by assessing the performance of the Council, decide on the candidates for the next term. Meanwhile, as the tenure arrangement for the President and Vice-Presidents will not affect the stability in Council membership, their one-year term of office could remain unchanged.

16. The PAO currently provides that the immediate past President of the HKICPA may stay as a Council member after retirement as President until the next annual general meeting. In response to the profession's concern that the aligned election cycle may result in the concurrent retirement of all 14 elected Council members and thus impede the continuity of the Council, we will make arrangements to allow the Vice-Presidents to continue to serve on the Council as members after the expiry of their original term for stronger continuity between two terms.

17. For the transitional arrangement, as we aim to implement the above amendments before the next HKICPA Council election in end-2022, we will extend the term of office of seven Council members as well as that of the President and Vice-Presidents, which will expire in end-2022, to end-2023. In other words, the HKICPA will not need to hold elections in end-2022, and hence have ample time for implementing the new accounting regulatory regime and making preparations for the elections in 2023.

Administrative procedures of the HKICPA

18. We will enhance the provisions in the PA By-laws regarding the procedures of general meetings to allow greater flexibility. The amendments include:

- (a) allowing the HKICPA to hold general meetings in online or hybrid mode;
- (b) allowing the HKICPA to adjourn or postpone a meeting for public health or safety reasons; and
- (c) allowing the HKICPA to issue notices or documents by electronic means and specifying the detailed requirements for issuing notices and documents by different means.

19. Besides, we will adjust the Council election timeline stipulated in the PA By-laws by extending the timeframe for submitting the nomination of candidates and issuing the list of nominated candidates by the HKICPA's Registrar from seven to 14 days, so as to allow sufficient time for the HKICPA executive team to verify the information in the nominations. Consequential amendments will also be made to other provisions in the PA By-laws concerning the Council election timeline.

LEGISLATIVE TIMETABLE

20. We will continue to collect views from stakeholders and plan to submit the above legislative proposals to the Legislative Council in the current legislative session, with a view that the proposals will take effect

before the HKICPA Council election in end-2022.

ADVICE SOUGHT

21. Members are invited to give their views on the legislative proposals set out in this paper.

**Financial Services Branch
Financial Services and the Treasury Bureau
25 March 2022**