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An Ordinance to establish an independent body to regulate accounting professionals through registration, issuing practising certificates, inspection, investigation and disciplinary sanction, and to oversee the performance by the Hong Kong Institute of Certified Public Accountants of its functions in relation to certified public accountants; to provide for a review and appeal mechanism regarding decisions made against those regulated by the Council; to provide for enquiries into non-compliances with regulatory requirements for financial reports of listed entities; to provide for the levies payable to the Council; and to provide for related matters.

(Replaced 41 of 2021 s. 3)

(Format changes—E.R. 2 of 2020)

[1 December 2006] *L.N. 204 of 2006*

(Enacting provision omitted—E.R. 2 of 2014)

Part 1

Preliminary

(Format changes—E.R. 2 of 2020)

1. Short title

(Amended E.R. 2 of 2020)

- (1) This Ordinance may be cited as the Accounting and Financial Reporting Council Ordinance. *(Amended 41 of 2021 s. 4)*
- (2) *(Omitted as spent—E.R. 2 of 2014)*

2. Interpretation

- (1) In this Ordinance, unless the context otherwise requires—

2019 Amending Ordinance (《2019年修訂條例》) means the Financial Reporting Council (Amendment) Ordinance 2019 (3 of 2019); (*Added 3 of 2019 s. 4*)

#2019 Ordinance commencement date (《2019年條例》生效日期) means the day on which section 23 of the 2019 Amending Ordinance comes into operation; (*Added 3 of 2019 s. 4*)

2021 Amending Ordinance (《2021年修訂條例》) means the Financial Reporting Council (Amendment) Ordinance 2021 (41 of 2021); (*Added 41 of 2021 s. 5*)

+2021 Ordinance commencement date (《2021年條例》生效日期) means the day on which section 3 of the 2021 Amending Ordinance comes into operation; (*Added 41 of 2021 s. 5*)

Advisory Committee (諮詢委員會) means the Advisory Committee referred to in section 10B; (*Added 41 of 2021 s. 5*)

AFRC (會財局) means the Accounting and Financial Reporting Council continued under section 6; (*Added 41 of 2021 s. 5*)

AFRC register (會財局註冊紀錄冊) means the register of certified public accountants (practising), CPA firms and corporate practices established and maintained under section 20AAZZI; (*Added 41 of 2021 s. 5*)

audit (審計)—

- (a) in relation to the accounts of a listed corporation, means an audit of those accounts required for the purposes of the relevant Ordinance or the Companies Ordinance (Cap. 622), as in force at the material time, or the Listing Rules;
- (b) in relation to the accounts of a listed collective investment scheme, means an audit of those accounts required for the purposes of the relevant code or the Listing Rules;

- (c) in relation to the accounts of a relevant undertaking of a listed entity, means—
- (i) in the case where an audit of those accounts is required for the purposes of the relevant Ordinance or the Companies Ordinance (Cap. 622), or the corporate law of a place outside Hong Kong, as in force at the material time, such an audit so required;
 - (ii) in any other case, the audit of those accounts, regardless of whether or not required for the purposes of any constitutional instrument of the undertaking; (*Amended 28 of 2012 ss. 912 & 920*)

authorized institution (認可機構) means an authorized institution within the meaning of section 2(1) of the Banking Ordinance (Cap. 155);

books (簿冊) includes accounts and accounting information, however compiled or stored, and whether recorded in a legible form or recorded otherwise than in a legible form but is capable of being reproduced in a legible form;

certified public accountant (會計師) has the meaning given by section 2(1) of the PA Ordinance; (*Added 3 of 2019 s. 4. Amended 41 of 2021 s. 5*)

certified public accountant (practising) (執業會計師) means a certified public accountant holding a practising certificate; (*Replaced 41 of 2021 s. 5*)

collective investment scheme (集體投資計劃) means a collective investment scheme within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

Commissioner of Inland Revenue (稅務局局長) means the Commissioner of Inland Revenue appointed under the Inland Revenue Ordinance (Cap. 112);

company (公司) means a company within the meaning of section 2(1) of the Companies Ordinance (Cap. 622); (*Amended 28 of 2012 ss. 912 & 920*)

complete (完成)—see section 3A(3); (*Added 3 of 2019 s. 4*)

controller (控權人) means a person who is an indirect controller, or a majority shareholder controller, within the meaning of section 2(1) of the Banking Ordinance (Cap. 155);

corporate practice (執業法團) means a company registered as a corporate practice under Division 3 of Part 2A; (*Replaced 41 of 2021 s. 5*)

corporation (法團) means a company or other body corporate incorporated either in Hong Kong or elsewhere;

CPA firm (會計師事務所) means—

- (a) a certified public accountant (practising) who practises accountancy on the accountant's own account under a firm name registered under Division 2 of Part 2A; or
- (b) a firm of certified public accountants (practising) that—
 - (i) practises accountancy in partnership; and
 - (ii) is registered under Division 2 of Part 2A; (*Added 41 of 2021 s. 5*)

CPA inspector (會計師查察員) means a person appointed as a CPA inspector under section 20ZZA; (*Added 41 of 2021 s. 5*)

CPA investigator (會計師調查員) means a person appointed as a CPA investigator under section 20ZZG; (*Added 41 of 2021 s. 5*)

CPA misconduct (會計師失當行為)—see section 37AA; (*Added 41 of 2021 s. 5*)

CPA register (會計師註冊紀錄冊) means the register of certified public accountants kept under section 22 of the PA Ordinance; (*Added 41 of 2021 s. 5*)

debenture (債權證) means a debenture within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

decision authority (作決定當局)—

- (a) in relation to a decision referred to in paragraph (a)(i) of the definition of **specified decision**—means the HKICPA Council; or
- (b) in relation to a decision referred to in paragraph (aa), (a)(ii) or (b) of the definition of **specified decision**—means the AFRC; (*Added 3 of 2019 s. 4. Amended 41 of 2021 s. 5*)

director (董事) includes a shadow director and any person occupying the position of director by whatever name called;

Director of Audit (審計署署長) means the Director of Audit appointed under section 3 of the Audit Ordinance (Cap. 122);

document (文件) includes—

- (a) any register, books and tape recording;
- (b) any input or output, in whatever form, into or from an information system; and
- (c) any other document or similar material (whether produced mechanically, electronically, magnetically, optically, manually or by any other means);

engagement partner (項目合夥人), in relation to a practice unit or registered PIE auditor, means a partner or other person authorized by the unit or auditor to be responsible for the PIE engagements carried out by the unit or auditor; (*Added 3 of 2019 s. 4*)

engagement quality control review (項目質素監控審視), in relation to a practice unit or registered PIE auditor, means a process designed by the unit or auditor to provide an objective evaluation of any significant judgement made and conclusion

reached in formulating the reports of the PIE engagements carried out by the unit or auditor; (*Added 3 of 2019 s. 4*)

engagement quality control reviewer (項目質素監控審視員), in relation to a practice unit or registered PIE auditor, means a person authorized by the unit or auditor to oversee the engagement quality control reviews carried out in relation to the PIE engagements carried out by the unit or auditor; (*Added 3 of 2019 s. 4*)

firm name (事務所名稱)—

- (a) in relation to a certified public accountant (practising) who practises accountancy on the accountant's own account—means the name or style under which the accountant practises if the name or style is otherwise than the accountant's own name as registered under section 22(2) of the PA Ordinance; or
- (b) in relation to a firm of certified public accountants (practising) that practises accountancy in partnership—means the name or style under which the firm practises; (*Added 41 of 2021 s. 5*)

FR inspector (財匯查察員) means a person appointed as an FR inspector under section 21A; (*Added L.N. 66 of 2022*)

FR investigator (財匯調查員) means—

- (a) the Investigation Board; or
- (b) a person appointed as an FR investigator under section 22A; (*Added L.N. 66 of 2022*)

FR misconduct (財匯失當行為)—

- (a) for a PIE auditor—see section 37A; or
- (b) for a registered responsible person of a registered PIE auditor—see section 37B; (*Added L.N. 66 of 2022*)

function (職能) includes a power and a duty;

HKEC (交易結算公司) means the company incorporated, and registered by the name “Hong Kong Exchanges and Clearing Limited”, under the relevant Ordinance; (*Amended 28 of 2012 ss. 912 & 920; E.R. 2 of 2020*)

HKICPA (香港會計師公會) means the Hong Kong Institute of Certified Public Accountants incorporated by section 3 of the PA Ordinance; (*Amended 41 of 2021 s. 5*)

HKICPA Council (公會理事會) means the Council of the HKICPA established by section 10(1) of the PA Ordinance; (*Added 3 of 2019 s. 4. Amended 41 of 2021 s. 5*)

HKICPA Registrar (公會註冊主任) means the Registrar appointed under section 21 of the PA Ordinance; (*Added 3 of 2019 s. 4. Amended 41 of 2021 s. 5*)

Independent Commission Against Corruption (廉政公署) means the Independent Commission Against Corruption established by section 3 of the Independent Commission Against Corruption Ordinance (Cap. 204);

information (資料) includes data, text, images, sound codes, computer programmes, software and databases, and any combination thereof;

information system (資訊系統) means an information system within the meaning of section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

Insurance Authority (保監局) means the Insurance Authority established under section 4AAA of the Insurance Ordinance (Cap. 41); (*Replaced 12 of 2015 s. 148*)

Investigation Board (調查委員會) means the Audit Investigation Board established by section 22(1);

list of registered responsible persons (註冊負責人名單), in relation to a registered PIE auditor, means the list of

registered responsible persons of the auditor, as recorded in the PIE auditors register; (*Added 3 of 2019 s. 4*)

listed collective investment scheme (上市集體投資計劃)—see section 3; (*Added 3 of 2019 s. 4*)

listed corporation (上市法團)—see section 3; (*Added 3 of 2019 s. 4*)

listed corporation (equity) (上市股權法團)—see section 3; (*Added 3 of 2019 s. 4*)

listed entity (上市實體)—see section 3; (*Added 3 of 2019 s. 4*)

listing document (上市文件)—

- (a) in relation to a listed corporation or a corporation seeking to be listed, means— (*Amended 3 of 2019 s. 4*)
 - (i) a prospectus; or
 - (ii) a document issued for the purposes of the Listing Rules that—
 - (A) offers any securities issued by the corporation to the public for subscription, or purchase, for a consideration; or
 - (B) is calculated to invite offers by the public to subscribe for, or purchase, for a consideration any securities issued by the corporation;
- (b) in relation to a listed collective investment scheme or a collective investment scheme seeking to be listed, means a document issued for the purposes of the relevant code or the Listing Rules that— (*Amended 3 of 2019 s. 4*)
 - (i) offers any interests in the scheme to the public for acquisition for a consideration;
 - (ii) offers the scheme to the public for participation for a consideration; or

- (iii) is calculated to invite offers by the public to acquire for a consideration any interests, or participate for a consideration, in the scheme;

Listing Rules (《上市規則》) means—

- (a) the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited; or
- (b) the Rules Governing the Listing of Securities on the Growth Enterprise Market of the Stock Exchange of Hong Kong Limited,

approved by the Securities and Futures Commission under section 24 of the Securities and Futures Ordinance (Cap. 571), and as in force at the material time;

manager (管理人), in relation to a collective investment scheme or listed collective investment scheme, means the person who is responsible, for the purposes of the relevant code or the Listing Rules, for the operation, and the management of the property, of the scheme for the benefit of those who hold interests in the scheme; (*Amended 3 of 2019 s. 4*)

Mandatory Provident Fund Schemes Authority (強積金管理局) means the Mandatory Provident Fund Schemes Authority established by section 6(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485);

Market Misconduct Tribunal (市場失當行為審裁處) means the Market Misconduct Tribunal established by section 251(1) of the Securities and Futures Ordinance (Cap. 571);

Monetary Authority (金融管理專員) means the Monetary Authority appointed under section 5A(1) of the Exchange Fund Ordinance (Cap. 66);

non-PIE (非公眾利益實體)—see section 3; (*Added 3 of 2019 s. 4*)

non-PIE auditor (非公眾利益實體核數師)—see section 3A; (*Added 3 of 2019 s. 4*)

non-PIE engagement (非公眾利益實體項目)—see section 3A;
(*Added 3 of 2019 s. 4*)

non-practitioner (非執業人士) means an individual who is not, and has not at any time within the previous 3 years been—

- (a) a certified public accountant (practising); or
- (b) a partner, director, agent or employee of a practice unit;
(*Added 3 of 2019 s. 4*)

officer (高級人員)—

- (a) in relation to a corporation, means a director, manager or secretary of, or any other person involved in the management of, the corporation; or
- (b) in relation to an unincorporated association or partnership, means any member of the governing body of, or any other person involved in the management of, the association or partnership;

Official Receiver (破產管理署署長) means the Official Receiver appointed under section 75(1) of the Bankruptcy Ordinance (Cap. 6);

overseas entity (境外實體) means—

- (a) a collective investment scheme constituted under the laws of any place outside Hong Kong; or
- (b) a body corporate incorporated outside Hong Kong, whether or not the scheme or body is a listed entity; (*Added 3 of 2019 s. 4*)

party (一方), in relation to a review of a specified decision, means—

- (a) the person who applies for the review; or
- (b) the decision authority that makes the decision; (*Added 3 of 2019 s. 4*)

PA Ordinance (《專業會計師條例》) means the Professional Accountants Ordinance (Cap. 50); (*Added 41 of 2021 s. 5*)

PAO professional standard (《專業會計師條例》專業標準) means any statement of professional ethics, or standard of accounting, auditing or assurance practices, issued or specified, or deemed to have been issued or specified, under section 18A of the PA Ordinance; (*Added 41 of 2021 s. 5*)

PIE—see section 3; (*Added 3 of 2019 s. 4*)

PIE auditor (公眾利益實體核數師)—see section 3A; (*Added 3 of 2019 s. 4*)

PIE auditors register (公眾利益實體核數師註冊紀錄冊) means the register of PIE auditors established under section 20ZX; (*Added 3 of 2019 s. 4*)

PIE engagement (公眾利益實體項目)—see section 3A; (*Added 3 of 2019 s. 4*)

possession (管有), in relation to any matter, includes custody, control and power of or over the matter;

practice unit (執業單位) means—

- (a) a certified public accountant (practising) who practises accountancy on the accountant's own account under the accountant's own name as registered under section 22(2) of the PA Ordinance;
- (b) a CPA firm; or
- (c) a corporate practice; (*Replaced 41 of 2021 s. 5*)

practising certificate (執業證書) means a practising certificate issued under section 20AAD or 20AAI; (*Added 41 of 2021 s. 5*)

practising certificate application (發證申請) means an application made under section 20AA; (*Added 41 of 2021 s. 5*)

professional indemnity insurance (專業彌償保險) has the meaning given by section 2(1) of the PA Ordinance; (*Added 41 of 2021 s. 5*)

professional person (專業人士) means—

- (a) a certified public accountant; or
- (b) a practice unit; (*Added 41 of 2021 s. 5*)

professional standard (專業標準) means—

- (a) any statement of professional ethics, or standard of accounting, auditing or assurance practices, issued or specified, or deemed to have been issued or specified, under section 18A of the PA Ordinance; (*Amended 41 of 2021 s. 5*)
- (b) any standard on professional ethics, or accounting, auditing or assurance practices, issued or specified by—
 - (i) the International Accounting Standards Board;
 - (ii) the International Auditing and Assurance Standards Board; or
 - (iii) the International Ethics Standards Board for Accountants;
- (c) any standard on professional ethics, or accounting, auditing or assurance practices, specified in the Listing Rules; or
- (d) any standard on professional ethics, or accounting, auditing or assurance practices, comparable to that referred to in paragraph (a) or (b) which is allowed—
 - (i) by the Securities and Futures Commission pursuant to the relevant code; or
 - (ii) by the HKEC pursuant to the Listing Rules; (*Added 3 of 2019 s. 4*)

prospectus (招股章程) means a prospectus within the meaning of section 2(1) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32); (*Amended 28 of 2012 ss. 912 & 920*)

public interest entity (公眾利益實體)—see section 3; (*Added 3 of 2019 s. 4*)

public officer (公職人員)—

- (a) means a person holding an office of emolument under the Government, whether such office be permanent or temporary; but
- (b) does not include—
 - (i) a person holding such an office by virtue only of being the chairperson of a board or tribunal established under an Ordinance; or (*Amended 3 of 2019 s. 4*)
 - (ii) a person who is a judicial officer for the purpose of section 2 of the Judicial Officers Recommendation Commission Ordinance (Cap. 92) or a judicial officer appointed by the Chief Justice;

quality control system (質素監控制度), in relation to a practice unit or registered PIE auditor, means the policies and procedures established and maintained by the unit or auditor to ensure that a PIE engagement carried out by the unit or auditor complies with the applicable professional standards and legal and regulatory requirements; (*Added 3 of 2019 s. 4*)

quality control system responsible person (質素監控制度負責人), in relation to a practice unit or registered PIE auditor, means a person authorized by the unit or auditor to be responsible for the quality control system of the unit or auditor; (*Added 3 of 2019 s. 4*)

recognition application (PIE auditor) (公眾利益實體核數師認可申請) means an application made under section 20ZE; (*Added L.N. 66 of 2022*)

recognized exchange company (認可交易所) means a company recognized as an exchange company under section 19(2) of the Securities and Futures Ordinance (Cap. 571); (*Added 3 of 2019 s. 4*)

recognized PIE auditor (認可公眾利益實體核數師)—see section 3A; (*Added 3 of 2019 s. 4*)

recognized stock market (認可證券市場) means a stock market operated by a recognized exchange company; (*Added 3 of 2019 s. 4*)

record (紀錄) means any record of information (however compiled or stored) and includes—

- (a) any books, deed, contract, agreement, voucher and receipt;
- (b) any document or other material used with or produced by an information system;
- (c) any information that is recorded otherwise than in a legible form but is capable of being reproduced in a legible form;
- (d) any document, disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of other equipment) of being reproduced; and
- (e) any film (including a microfilm), disc, tape or other device in which visual images are embodied so as to be capable (with or without the aid of other equipment) of being reproduced;

registered office (註冊辦事處)—

- (a) in relation to a certified public accountant (practising)—means the registered office of the accountant referred to in section 20AAQ;
- (b) in relation to a CPA firm—means the registered office of the firm referred to in section 20AAZK; or
- (c) in relation to a corporate practice—means the registered office of the practice referred to in section 20AAZZE;
(*Added 41 of 2021 s. 5*)

registered PIE auditor (註冊公眾利益實體核數師)—see section 3A; (*Added 3 of 2019 s. 4*)

registered responsible person (註冊負責人), in relation to a registered PIE auditor, means an individual whose name is recorded in the PIE auditors register as a responsible person of the auditor; (*Added 3 of 2019 s. 4*)

Registrar of Companies (公司註冊處處長) means the Registrar of Companies appointed under section 21(1) of the Companies Ordinance (Cap. 622); (*Amended 28 of 2012 ss. 912 & 920*)

registration application (corporate practice) (法團註冊申請) means an application made under section 20AAZM; (*Added 41 of 2021 s. 5*)

registration application (CPA firm) (事務所註冊申請) means an application made under section 20AAS; (*Added 41 of 2021 s. 5*)

registration application (PIE auditor) (公眾利益實體核數師註冊申請) means an application made under section 20G; (*Added L.N. 66 of 2022*)

related person (有關連人士), in relation to the AFRC, means—
(*Amended 3 of 2019 s. 4; 41 of 2021 s. 5*)

- (a) a person employed by the AFRC under section 10; or

- (b) a person appointed as a consultant, agent or adviser of the AFRC under section 10; (*Amended 3 of 2019 s. 4; 41 of 2021 s. 5*)

relevant code (有關守則) means—

- (a) a code or guideline published under section 112ZR of the Securities and Futures Ordinance (Cap. 571), as in force at the material time; or
- (b) a code or guideline published under section 399 of that Ordinance for providing guidance in relation to the operation of section 104 of that Ordinance, as in force at the material time; (*Replaced 16 of 2016 s. 46*)

relevant financial report (有關財務報告)—

- (a) except in relation to sections 5(2) and 50, has the meaning assigned to it by Part 1 of Schedule 1;
- (b) in relation to sections 5(2) and 50, has the meaning assigned to it by Part 2 of Schedule 1;

relevant Ordinance (《有關條例》) means the Companies Ordinance (Cap. 32) as in force from time to time before the commencement date* of section 2 of Schedule 9 to the Companies Ordinance (Cap. 622); (*Added 28 of 2012 ss. 912 & 920*)

relevant requirement (有關規定)—

- (a) except in relation to sections 5(2) and 50, has the meaning assigned to it by Part 1 of Schedule 1;
- (b) in relation to sections 5(2) and 50, has the meaning assigned to it by Part 2 of Schedule 1;

relevant undertaking (有關企業)—

- (a) in relation to a listed corporation, means an undertaking that is, or was at the material time—

- (i) a subsidiary undertaking, as construed in accordance with Schedule 1 to the Companies Ordinance (Cap. 622), of the corporation; or (*Amended 28 of 2012 ss. 912 & 920*)
- (ii) an undertaking that is required to be accounted for and consolidated in the accounts, or the next accounts, of the corporation as a subsidiary for the purposes of—
 - (A) the standards of accounting practices issued or specified, or deemed to have been issued or specified, under section 18A of the PA Ordinance, as in force at the material time; (*Amended 41 of 2021 s. 5*)
 - (B) the International Financial Reporting Standards issued by the International Accounting Standards Board, as in force at the material time;
 - (C) the Listing Rules; or
 - (D) any generally acceptable accounting principles allowed for usage under the Listing Rules;
- (b) in relation to a listed collective investment scheme, means an undertaking that is, or was at the material time, an undertaking that is required to be accounted for and consolidated in the accounts, or the next accounts, of the scheme as a subsidiary for the purposes of—
 - (i) the standards of accounting practices issued or specified, or deemed to have been issued or specified, under section 18A of the PA Ordinance, as in force at the material time; (*Amended 41 of 2021 s. 5*)

- (ii) the International Financial Reporting Standards issued by the International Accounting Standards Board, as in force at the material time;
- (iii) the Listing Rules; or
- (iv) any generally acceptable accounting principles allowed for usage under the Listing Rules;
(Amended 3 of 2019 s. 4)

renewal application (corporate practice registration) (法團註冊續期申請) means an application made under section 20AAZR; (Added 41 of 2021 s. 5)

renewal application (CPA firm registration) (事務所註冊續期申請) means an application made under section 20AAX; (Added 41 of 2021 s. 5)

renewal application (practising certificate) (續證申請) means an application made under section 20AAF; (Added 41 of 2021 s. 5)

renewal application (PIE auditor recognition) (公眾利益實體核數師認可續期申請) means an application made under section 20ZK; (Added L.N. 66 of 2022)

renewal application (PIE auditor registration) (公眾利益實體核數師註冊續期申請) means an application made under section 20K; (Added L.N. 66 of 2022)

responsible person (負責人)—

- (a) in relation to a collective investment scheme or listed collective investment scheme, means—
 - (i) the manager of the scheme; or
 - (ii) the person appointed as the trustee, or custodian, of the property of the scheme; or
- (b) in relation to a practice unit or registered PIE auditor, means—

- (i) an engagement partner of the unit or auditor;
- (ii) an engagement quality control reviewer of the unit or auditor; or
- (iii) a quality control system responsible person of the unit or auditor; (*Replaced 3 of 2019 s. 4*)

review (覆核) means a review of a specified decision under Division 3 of Part 3C; (*Added 3 of 2019 s. 4*)

review application (覆核申請) means an application made under section 37Q; (*Added 3 of 2019 s. 4*)

Review Committee (檢討委員會) means a Financial Reporting Review Committee appointed under section 40(1)(b);

Review Panel (檢討委員團) means the Financial Reporting Review Panel appointed under section 39(1);

securities (證券)—

- (a) means—
 - (i) shares, stocks, debentures, loan stocks, funds, bonds or notes;
 - (ii) rights, options or interests (whether described as units or otherwise) in, or in respect of, shares, stocks, debentures, loan stocks, funds, bonds or notes;
 - (iii) certificates of interest or participation in, temporary or interim certificates for, receipts for, or warrants to subscribe for or purchase, shares, stocks, debentures, loan stocks, funds, bonds or notes;
 - (iv) interests, rights or property, whether in the form of an instrument or otherwise, commonly known as securities;
 - (v) interests, rights or property that is interests, rights or property, or is of a class or description

of interests, rights or property, prescribed by notice under section 392 of the Securities and Futures Ordinance (Cap. 571) as being regarded as securities in accordance with the terms of the notice; but

- (b) does not include—
- (i) any negotiable receipt or other negotiable certificate or document evidencing the deposit of a sum of money, or any rights or interest arising under the receipt, certificate or document;
 - (ii) any bill of exchange within the meaning of section 3 of the Bills of Exchange Ordinance (Cap. 19) and any promissory note within the meaning of section 89 of that Ordinance;
 - (iii) interests, rights or property that is interests, rights or property, or is of a class or description of interests, rights or property, prescribed by notice under section 392 of the Securities and Futures Ordinance (Cap. 571) as not being regarded as securities in accordance with the terms of the notice;

Securities and Futures Commission (證監會) means the Securities and Futures Commission referred to in section 3(1) of the Securities and Futures Ordinance (Cap. 571);

shadow director (幕後董事) means a person in accordance with whose directions or instructions the directors of a corporation are accustomed or obliged to act, but a person is not to be regarded as a shadow director only because the directors act on advice given by the person in a professional capacity;
(Amended 3 of 2019 s. 4)

share (股份) means any share in the share capital of a corporation;

specified authority (指明當局)—

- (a) means—
- (i) an authority, or regulatory organization, whether in Hong Kong or elsewhere; or
 - (ii) an accountancy body, whether in Hong Kong or elsewhere, that is a member of the International Federation of Accountants; but

(b) does not include a specified enforcement agency;

specified body (指明團體) means a specified authority or a specified enforcement agency;

specified decision (指明決定) means—

- (aa) a decision by the AFRC—
- (i) to refuse a practising certificate application under section 20AAB;
 - (ii) to impose a condition under section 20AAB(3) or 20AAG(3) when granting a practising certificate application or renewal application (practising certificate);
 - (iii) to refuse a renewal application (practising certificate) under section 20AAG;
 - (iv) to cancel or suspend a practising certificate under section 20AAO;
 - (v) to refuse a registration application (CPA firm) under section 20AAT;
 - (vi) to refuse a renewal application (CPA firm registration) under section 20AAY;
 - (vii) to revoke or suspend the registration of a firm name or firm under section 20AAZH;
 - (viii) to refuse a registration application (corporate practice) under section 20AAZN;

- (ix) to refuse a renewal application (corporate practice registration) under section 20AAZS;
 - (x) to revoke or suspend the registration of a corporate practice under section 20AAZZB or 20AAZZH(6); or
 - (xi) to impose a condition in relation to the registration of a corporate practice under section 20AAZZG(3);
(Added 41 of 2021 s. 5)
- (a) a decision—
- (i) by the HKICPA Council before the 2021 Ordinance commencement date—
 - (A) to refuse a registration application under section 20H as in force immediately before that date;
 - (B) to refuse a renewal application (registration) under section 20L as in force immediately before that date;
 - (C) to impose or amend a condition in relation to the registration of a PIE auditor under section 20S as in force immediately before that date;
 - (D) to revoke or suspend the registration of a PIE auditor under section 20T or 20X as in force immediately before that date; or
 - (E) to refuse to add the name of a person to the list of registered responsible persons of a registered PIE auditor under section 20Y as in force immediately before that date; or
 - (ii) by the AFRC on or after the 2021 Ordinance commencement date—
 - (A) to refuse a registration application (PIE auditor) under section 20H;

- (B) to refuse a renewal application (PIE auditor registration) under section 20L;
 - (C) to impose or amend a condition in relation to the registration of a PIE auditor under section 20S;
 - (D) to revoke or suspend the registration of a PIE auditor under section 20T or 20X; or
 - (E) to refuse to add the name of a person to the list of registered responsible persons of a registered PIE auditor under section 20Y; or
(Replaced 41 of 2021 s. 5)
- (b) a decision by the AFRC— *(Amended 41 of 2021 s. 5)*
- (i) to refuse a recognition application (PIE auditor) under section 20ZF;
 - (ii) to refuse a renewal application (PIE auditor recognition) under section 20ZL;
 - (iii) to impose or amend a condition in relation to the recognition of a PIE auditor under section 20ZR;
 - (iv) to revoke or suspend the recognition of a PIE auditor under section 20ZS or 20ZV;
 - (v) to revoke the recognition of a Mainland auditor under section 20ZT(5); or
 - (vi) to impose a sanction under section 37CA, 37D, 37E or 37F; *(Added 3 of 2019 s. 4. Amended 41 of 2021 s. 5; L.N. 66 of 2022)*

specified enforcement agency (指明執行機構) means—

- (a) the Commissioner of Police of Hong Kong;
- (b) the Commissioner of the Independent Commission Against Corruption;
- (c) the HKICPA;

- (d) the HKEC;
- (e) the Securities and Futures Commission;
- (f) the Registrar of Companies;
- (g) the Monetary Authority;
- (h) the Insurance Authority;
- (i) the Commissioner of Inland Revenue;
- (j) the Official Receiver;
- (k) the Mandatory Provident Fund Schemes Authority; or
- (l) the Market Misconduct Tribunal;

specified report (指明報告)—

- (a) in relation to a prospectus issued by or on behalf of a listed corporation or a corporation seeking to be listed, means any report, specified in Part II of the Third Schedule to the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32), that is required under section 38 or 342 of that Ordinance to be set out in the prospectus; (*Amended 28 of 2012 ss. 912 & 920; 3 of 2019 s. 4*)
- (b) in relation to a listing document (other than a prospectus) issued by or on behalf of a listed corporation or listed collective investment scheme, or a corporation or collective investment scheme seeking to be listed, means any report on the profits and losses of, the assets and liabilities of, and other financial information on— (*Amended 3 of 2019 s. 4*)
 - (i) the corporation or scheme; or
 - (ii) a business or undertaking to be acquired, or disposed of, by the corporation or scheme,

that is required for inclusion in the listing document issued for the purposes of the relevant code or the Listing Rules; (*Amended 3 of 2019 s. 4*)

substantial shareholder (大股東) means a substantial shareholder within the meaning of section 6 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

Tribunal (審裁處) means the Accounting and Financial Reporting Review Tribunal continued under section 37N; (*Added 3 of 2019 s. 4. Amended 41 of 2021 s. 5*)

undertake (承擔)—see section 3A(2); (*Added 3 of 2019 s. 4*)

undertaking (企業) includes an unincorporated association carrying on a trade or business (whether or not for profit), a corporation and a partnership.

(*Amended 3 of 2019 s. 4; 41 of 2021 s. 5; L.N. 66 of 2022*)

- (2) In this Ordinance, a reference to the **performance of a function** includes the exercise of a power and the discharge of a duty.
- (3) In this Ordinance, a reference to the **interest of the investing public** does not include any interest the taking into consideration of which is or is likely to be contrary to the public interest.
- (4) For the purposes of this Ordinance, a person is given a reasonable opportunity of being heard if the person is given an opportunity to make written or oral representations. (*Added 3 of 2019 s. 4*)

Editorial Note:

2019 Ordinance commencement date: 1 October 2019.

* Commencement date: 3 March 2014.

+ Commencement date: 1 October 2022.

3. Meaning of *listed entity*, *PIE*, etc.

(Replaced 3 of 2019 s. 5)

(1) In this Ordinance—

listed collective investment scheme (上市集體投資計劃) means a collective investment scheme that is or was listed; (*Amended 3 of 2019 s. 5*)

listed corporation (上市法團) means a corporation that is or was listed; (*Amended 3 of 2019 s. 5*)

listed corporation (equity) (上市股權法團) means a listed corporation the listed securities of which comprise at least shares or stocks; (*Added 3 of 2019 s. 5*)

listed entity (上市實體) means—

- (a) a listed corporation; or
- (b) a listed collective investment scheme; (*Replaced 3 of 2019 s. 5*)

non-PIE (非公眾利益實體) means a listed corporation that is not a listed corporation (equity); (*Added 3 of 2019 s. 5*)

PIE means a public interest entity; (*Added 3 of 2019 s. 5*)

public interest entity (公眾利益實體) means—

- (a) a listed corporation (equity); or
- (b) a listed collective investment scheme. (*Added 3 of 2019 s. 5*)

(2) For the purposes of this Ordinance—

- (a) a corporation is listed if any securities issued by the corporation are listed on a recognized stock market; and
- (b) a collective investment scheme is listed if any interests in the scheme are listed on a recognized stock market.

(3) For the purposes of subsection (2)(a)—

- (a) the securities issued by a corporation are taken to be listed on a recognized stock market if, on the application

- of the corporation or of a holder of the securities, the company operating the market has agreed to allow, subject to the requirements of the Securities and Futures Ordinance (Cap. 571), dealings in those securities to take place on the market; and
- (b) if, after the securities are taken to be listed on a recognized stock market by virtue of paragraph (a), dealings in those securities on the market are suspended, the suspension does not affect the operation of that paragraph in relation to those securities.
- (4) For the purposes of subsection (2)(b)—
- (a) the interests in a collective investment scheme are taken to be listed on a recognized stock market if, on the application of a responsible person of the scheme, the company operating the market has agreed to allow, subject to the requirements of the Securities and Futures Ordinance (Cap. 571), dealings in those interests to take place on the market; and
- (b) if, after the interests are taken to be listed on a recognized stock market by virtue of paragraph (a), dealings in those interests on the market are suspended, the suspension does not affect the operation of that paragraph in relation to those interests.
- (5) In this section—
- dealing** (交易), in relation to securities issued by a corporation or interests in a collective investment scheme, means, whether as principal or agent, making or offering to make an agreement with another person, or inducing or attempting to induce another person, to enter into or to offer to enter into an agreement—
- (a) for or with a view to acquiring, disposing of, subscribing for or underwriting such securities or interests; or

(b) the purpose or pretended purpose of which is to secure a profit to any of the parties—

(i) from the yield of such securities or interests; or

(ii) by reference to fluctuations in the value of such securities or interests. (*Amended 3 of 2019 s. 5*)

(*Amended 3 of 2019 s. 5*)

3A. Meaning of various types of auditors and engagements

(1) In this Ordinance—

non-PIE auditor (非公眾利益實體核數師) means a practice unit that undertakes or carries out a non-PIE engagement;

non-PIE engagement (非公眾利益實體項目) means an engagement specified in Part 2 of Schedule 1A;

PIE auditor (公眾利益實體核數師) means—

(a) a registered PIE auditor; or

(b) a recognized PIE auditor;

PIE engagement (公眾利益實體項目) means an engagement specified in Part 1 of Schedule 1A;

recognized PIE auditor (認可公眾利益實體核數師) means an overseas auditor recognized under Division 3 of Part 3, including a Mainland auditor recognized under section 20ZT; (*Amended 41 of 2021 s. 6*)

registered PIE auditor (註冊公眾利益實體核數師) means a practice unit registered under Division 2 of Part 3. (*Amended 41 of 2021 s. 6*)

(*Amended 41 of 2021 s. 6*)

(2) For the purposes of this Ordinance, a person undertakes a PIE engagement or non-PIE engagement when the person accepts the appointment for carrying out the engagement.

- (3) For the purposes of this Ordinance, a PIE engagement or non-PIE engagement is completed when—
- (a) if the engagement is for the preparation of an auditor's report referred to in item 1(a)(i) of Part 1, or item 1(a) of Part 2, of Schedule 1A, the report is sent under section 430 of the Companies Ordinance (Cap. 622);
 - (b) if the engagement is for the preparation of an auditor's report referred to in item 1(a)(ii) or (b) of Part 1, or item 1(b) of Part 2, of Schedule 1A, the report is issued for the purposes of the relevant code or the Listing Rules, as the case requires;
 - (c) if the engagement is for the preparation of a specified report referred to in item 2 of Part 1, or item 2 of Part 2, of Schedule 1A, the listing document in which the report is included is issued for the purposes of the Listing Rules; or
 - (d) if the engagement is for the preparation of an accountant's report referred to in item 3 of Part 1 of Schedule 1A, the circular in which the report is included is issued for the purposes of the Listing Rules.
- (4) Nothing in this Ordinance prevents a registered PIE auditor from undertaking or carrying out a non-PIE engagement.

(Added 3 of 2019 s. 6)

3B. Professional irregularity by professional persons

- (1) For the purposes of this Ordinance, a professional person commits a professional irregularity if the person—
- (a) falsifies or causes to be falsified a document;
 - (b) makes a statement, in respect of a document, that is material and that the person knows to be false or does not believe to be true;

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- (c) fails to observe, maintain or otherwise apply a PAO professional standard;
 - (d) fails to comply with an AML/CTF requirement;
 - (e) fails, without reasonable excuse, to comply with a requirement imposed under section 20ZZC(1) or 20ZZJ(1);
 - (f) fails to comply with—
 - (i) the provisions of any bylaw or rule made or any direction lawfully given by the HKICPA Council; or
 - (ii) any regulation made or any direction lawfully given by the AFRC;
 - (g) is negligent in the conduct of the person's profession;
 - (h) is guilty of professional misconduct; or
 - (i) while being a responsible person of a limited partnership fund—
 - (i) causes or allows a breach of an AML/CTF requirement by the fund; or
 - (ii) fails to take reasonable steps to prevent such a breach.
- (2) Without limiting subsection (1), where the professional person is a certified public accountant, the person also commits a professional irregularity if the person—
- (a) while being a certified public accountant (practising), practises accountancy on the person's own account under a name other than—
 - (i) the person's own name as registered under section 22(2) of the PA Ordinance at the time the person so practises; or

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- (ii) the person's firm name as registered in the AFRC register at the time the person so practises;
 - (b) renders any service as, or purporting to be—
 - (i) a partner of a firm of certified public accountants (practising) the name of which does not, at the time of rendering the service, appear in the AFRC register; or
 - (ii) a director of a corporate practice the name of which does not, at the time of rendering the service, appear in the AFRC register;
 - (c) is guilty of dishonourable conduct;
 - (d) while being a director of a corporate practice—
 - (i) practises accountancy as a director of the corporate practice at a time when the practice is not covered by professional indemnity insurance as required by this Ordinance;
 - (ii) causes or allows a breach of an AML/CTF requirement by the corporate practice; or
 - (iii) fails to take reasonable steps to prevent a breach of an AML/CTF requirement by the corporate practice; or
 - (e) while being a director of a corporation that is a TCSP licensee—
 - (i) causes or allows a breach of an AML/CTF requirement by the corporation; or
 - (ii) fails to take reasonable steps to prevent such a breach.
- (3) Without limiting subsection (1), where the professional person is a firm of certified public accountants (practising),

the person also commits a professional irregularity if the person—

- (a) renders any service under a firm name other than the name in which the person is, at the time of rendering the service, registered in the AFRC register; or
 - (b) is guilty of dishonourable conduct.
- (4) Without limiting subsection (1), where the professional person is a corporate practice, the person also commits a professional irregularity if the person—
- (a) ceases to comply with a requirement specified in section 20AAZX(3), (4), (5) or (6);
 - (b) fails to comply with a requirement specified in section 20AAZZG(2) or (4);
 - (c) renders any service under a company name other than the name in which the person is, at the time of rendering the service, registered in the AFRC register;
 - (d) practises accountancy as such a practice without being covered by professional indemnity insurance as required by this Ordinance;
 - (e) does or omits to do something that, if the person were an individual certified public accountant, would reasonably be regarded by an individual as being dishonourable conduct; or
 - (f) while being a director of a corporation that is a TCSP licensee—
 - (i) causes or allows a breach of an AML/CTF requirement by the corporation; or
 - (ii) fails to take reasonable steps to prevent such a breach.
- (5) In this section—

accounting professional (會計專業人士) has the meaning given by section 1 of Part 2 of Schedule 1 to the AMLO;

AML/CTF requirement (反洗錢／恐怖分子資金籌集規定) means a requirement that—

- (a) is set out in Part 2, 3 or 4 of Schedule 2 to the AMLO; and
- (b) applies—
 - (i) for subsections (1)(d) and (2)(d)(ii) and (iii)—under section 5A(3) of the AMLO to an accounting professional;
 - (ii) for subsections (2)(e) and (4)(f)—under section 5A(5) of the AMLO to a TCSP licensee; and
 - (iii) for subsection (1)(i)—under section 34(1) of the Limited Partnership Fund Ordinance (Cap. 637) to an accounting professional appointed as a responsible person of a limited partnership fund;

AMLO (《反洗錢條例》) means the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615);

director (董事) has the meaning given by section 1 of Part 2 of Schedule 1 to the AMLO;

dishonourable conduct (不名譽行為)—

- (a) in relation to a certified public accountant—means an act or omission of the accountant, whether or not done or made in the course of carrying out professional work or as a certified public accountant, that would reasonably be regarded as bringing or likely to bring discredit on the accountant, the HKICPA or the accountancy profession; or
- (b) in relation to a firm of certified public accountants (practising)—means an act or omission of the firm, whether or not done or made in the course of carrying

out professional work or as a firm of certified public accountants, that would reasonably be regarded as bringing or likely to bring discredit on the firm, the HKICPA or the accountancy profession;

limited partnership fund (有限合夥基金) has the meaning given by section 2 of the Limited Partnership Fund Ordinance (Cap. 637);

responsible person (負責人) has the meaning given by section 2 of the Limited Partnership Fund Ordinance (Cap. 637);

TCSP licensee (信託或公司服務持牌人) has the meaning given by section 1 of Part 2 of Schedule 1 to the AMLO.

(Added 41 of 2021 s. 7)

4. **Practice irregularity by PIE auditors, non-PIE auditors, etc.**

(Replaced 3 of 2019 s. 7)

(1) For the purposes of this Ordinance, a PIE auditor or non-PIE auditor has committed a practice irregularity if, in relation to a PIE engagement or non-PIE engagement completed on or after the 2019 Ordinance commencement date, the auditor—
(Replaced 3 of 2019 s. 7)

- (a) falsified or caused to be falsified a document;
- (b) made a statement, in respect of a document, that was material and that the auditor knew to be false or did not believe to be true;
- (c) has been negligent in the conduct of the auditor's profession;
- (d) has been guilty of professional misconduct; or
- (e) did or omitted to do something that would reasonably be regarded as bringing or likely to bring discredit on the auditor, the HKICPA or the accountancy profession.
(Replaced 3 of 2019 s. 7)

- (2) Without prejudice to subsection (1), where the PIE auditor or non-PIE auditor is a corporate practice, the auditor has also committed a practice irregularity if, in relation to a PIE engagement or non-PIE engagement completed on or after the 2019 Ordinance commencement date— (*Replaced 3 of 2019 s. 7*)
- (a) the auditor— (*Amended 3 of 2019 s. 7*)
- (i) ceased to comply with a requirement specified in section 20AAZX(3), (4), (5) or (6); (*Replaced 41 of 2021 s. 8*)
 - (ii) failed to comply with a requirement specified in section 20AAZZG(2) or (4); (*Replaced 41 of 2021 s. 8*)
 - (iii) rendered any service under a company name other than the name in which the auditor was, at the time of rendering the service, registered in— (*Amended 41 of 2021 s. 8*)
 - (A) for a PIE auditor—the PIE auditors register; or
 - (B) for a non-PIE auditor—the AFRC register;
 - (iv) practised accountancy as such a practice without being covered by professional indemnity insurance as required by this Ordinance.
 - (v) failed or neglected to observe, maintain or otherwise apply a professional standard; or
 - (vi) refused or neglected to comply with the provisions of any bylaw or rule made or any direction lawfully given by the HKICPA Council, or any direction lawfully given by the AFRC; or
- (b) a director (who is a certified public accountant) of the auditor— (*Amended 3 of 2019 s. 7*)

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- (i) rendered any service as, or purporting to be, a director of a company whose name did not, at the time of rendering the service, appear in—
(Amended 3 of 2019 s. 7; 41 of 2021 s. 8)
- (A) for a PIE auditor—the PIE auditors register;
or
- (B) for a non-PIE auditor—the AFRC register; or
- (ii) practised accountancy as such a director at a time when the auditor was not covered by professional indemnity insurance as required by this Ordinance.
- (3) Without prejudice to subsection (1), where the PIE auditor or non-PIE auditor is a certified public accountant (practising), the auditor has also committed a practice irregularity if, in relation to a PIE engagement or non-PIE engagement completed on or after the 2019 Ordinance commencement date, the auditor— *(Replaced 3 of 2019 s. 7)*
- (a) failed or neglected to observe, maintain or otherwise apply a professional standard; or
- (b) refused or neglected to comply with the provisions of any bylaw or rule made or any direction lawfully given by the HKICPA Council, or any direction lawfully given by the AFRC.
- (4) Without prejudice to subsection (1), where the PIE auditor or non-PIE auditor is a firm of certified public accountants (practising), the auditor has also committed a practice irregularity if, in relation to a PIE engagement or non-PIE engagement completed on or after the 2019 Ordinance commencement date, the auditor— *(Replaced 3 of 2019 s. 7)*
- (a) failed or neglected to observe, maintain or otherwise apply a professional standard;

- (b) refused or neglected to comply with the provisions of any bylaw or rule made or any direction lawfully given by the HKICPA Council, or any direction lawfully given by the AFRC; or
- (c) rendered any service under a firm name other than the name in which the auditor was, at the time of rendering the service, registered in— (*Amended 41 of 2021 s. 8*)
 - (i) for a PIE auditor—the PIE auditors register; or
 - (ii) for a non-PIE auditor—the AFRC register.
- (5) For the purposes of this Ordinance, a registered responsible person of a registered PIE auditor has committed a practice irregularity if, in relation to a PIE engagement completed by the auditor on or after the 2019 Ordinance commencement date, the person—
 - (a) falsified or caused to be falsified a document;
 - (b) made a statement, in relation to a document, that was material and that the person knew to be false or did not believe to be true;
 - (c) has been negligent in the conduct of the person's profession;
 - (d) has been guilty of professional misconduct;
 - (e) did or omitted to do something that would reasonably be regarded as bringing or likely to bring discredit on the person, the HKICPA or the accountancy profession;
 - (f) failed or neglected to observe, maintain or otherwise apply a professional standard; or
 - (g) refused or neglected to comply with the provisions of any bylaw or rule made, or any direction lawfully given, by the HKICPA Council, or any direction lawfully given by the AFRC. (*Replaced 3 of 2019 s. 7*)

(6) *(Repealed 41 of 2021 s. 8)*

(Amended 3 of 2019 s. 7; 41 of 2021 s. 8)

5. Relevant non-compliance

- (1) For the purposes of this Ordinance (except section 50), there is a relevant non-compliance in relation to a listed entity if a relevant financial report, within the meaning of Part 1 of Schedule 1, of the entity has not complied with a relevant requirement, within the meaning of Part 1 of that Schedule, that applies to the report.
 - (2) For the purposes of section 50, there is a relevant non-compliance in relation to a listed corporation if a relevant financial report, within the meaning of Part 2 of Schedule 1, of the corporation has not complied with a relevant requirement, within the meaning of Part 2 of that Schedule, that applies to the report.
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Part 2

Accounting and Financial Reporting Council

(Amended 41 of 2021 s. 9)

(Format changes—E.R. 2 of 2020)

6. Accounting and Financial Reporting Council

(Amended 41 of 2021 s. 10)

- (1) On and after the 2021 Ordinance commencement date, the body corporate established under the former section 6(1) and known as “Financial Reporting Council” in English and “財務匯報局” in Chinese immediately before that date is known as—
 - (a) “Accounting and Financial Reporting Council” in English; and
 - (b) “會計及財務匯報局” in Chinese. *(Replaced 41 of 2021 s. 10)*
- (1A) Despite the repeal of the former section 6(1)—
 - (a) the body corporate established under that section continues in existence as the AFRC on and after the 2021 Ordinance commencement date; and
 - (b) accordingly, the jurisdiction, powers, functions and duties of that body corporate are not affected in any way by the change of name effected by subsection (1). *(Added 41 of 2021 s. 10)*
- (1B) To avoid doubt, the repeal of the former section 6(1) or the change of name effected by subsection (1) does not affect any power exercised or function or duty performed by that body corporate before the 2021 Ordinance commencement date. *(Added 41 of 2021 s. 10)*

- (2) The AFRC— (*Amended 3 of 2019 s. 8; 41 of 2021 s. 10*)
 - (a) has perpetual succession under its corporate name;
 - (b) must provide itself with a common seal; and
 - (c) is capable of suing and being sued in its corporate name.
- (3) The AFRC is not a servant or agent of the Government and does not enjoy any status, immunity or privilege of the Government. (*Amended 41 of 2021 s. 10*)
- (4) In this section—
former section 6(1) (原有第6(1)條) means section 6(1) as in force immediately before the 2021 Ordinance commencement date. (*Added 41 of 2021 s. 10*)

(Amended 3 of 2019 s. 8)

7. Composition of AFRC

(Amended 41 of 2021 s. 11)

- (1) The AFRC is to consist of the following members— (*Amended 41 of 2021 s. 11*)
 - (a) a chairperson, who is a non-executive director of the AFRC;
 - (b) a chief executive officer, who is an executive director of the AFRC; and
 - (c) at least 7 other members, who are either executive or non-executive directors of the AFRC.
- (2) All members of the AFRC must be non-practitioners appointed by the Chief Executive.
- (3) Among the members of the AFRC, the number of non-executive directors must exceed the number of executive directors.

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- (4) Among the members of the AFRC— (*Amended 41 of 2021 s. 11*)
- (a) at least one-third must be appointed from among persons who appear to the Chief Executive to be suitable for appointment, because of their knowledge and experience in PIE engagements; and
 - (b) the others must be appointed from among persons who appear to the Chief Executive to be suitable for appointment, because of—
 - (i) their knowledge in accounting, auditing, finance, banking, law, administration or management; or
 - (ii) their professional or occupational experience.
- (5) A public officer is not eligible for appointment as a member of the AFRC.
- (6) The Chief Executive must publish in the Gazette a notice of each appointment under subsection (2).
- (7) The AFRC may perform any of its functions, and its proceedings are valid, despite— (*Amended 41 of 2021 s. 11*)
- (a) a vacancy in its membership;
 - (b) a defect in the appointment or qualification of a person purporting to be its member;
 - (c) a defect in its composition under subsection (3); or
 - (d) a minor irregularity in the convening of any of its meetings.
- (8) If any requirement under this section is not complied with, the Chief Executive must as soon as practicable take the necessary action to ensure that the requirement is complied with.
- (9) Schedule 2 has effect with respect to the AFRC and its members.

(Replaced 3 of 2019 s. 9. Amended 41 of 2021 s. 11)

8. *(Repealed 3 of 2019 s. 10)*

9. **Functions of AFRC**

(Amended 3 of 2019 s. 11; 41 of 2021 s. 12)

The functions of the AFRC are— *(Amended 3 of 2019 s. 11; 41 of 2021 s. 12)*

- (a) to regulate—
 - (i) certified public accountants through issuing practising certificates, and through investigation and disciplinary sanction;
 - (ii) CPA firms and corporate practices through registration, and practice units through inspection, investigation and disciplinary sanction; and
 - (iii) auditors of listed entities through a registration and recognition mechanism, and through inspection, investigation and disciplinary sanction; *(Replaced 41 of 2021 s. 12)*
- (b) to oversee the HKICPA's performance of the following functions—
 - (i) ascertaining whether persons are qualified for registration as certified public accountants by conducting examinations and acting in such other manner as may be necessary, and dealing with applications and other matters relating to the registration of certified public accountants; *(Replaced 41 of 2021 s. 12)*
 - (ii) arranging with accountancy bodies in places outside Hong Kong for the mutual or reciprocal

- recognition of accountants; *(Replaced 41 of 2021 s. 12)*
- (iii) setting continuing professional development requirements for certified public accountants; *(Replaced 41 of 2021 s. 12)*
 - (iv) issuing or specifying standards on professional ethics, and accounting, auditing and assurance practices, for certified public accountants; and *(Replaced 41 of 2021 s. 12)*
 - (v) providing training for qualifying for registration as, and the continuing professional development of, certified public accountants; *(Added 41 of 2021 s. 12)*
- (c) to monitor, through enquiries, the compliance by listed entities of regulatory requirements for financial reports; *(Replaced 3 of 2019 s. 11)*
 - (d) with respect to each of the inspections, investigations or enquiries, to decide on, and carry out, the appropriate action in accordance with this Ordinance; *(Amended 3 of 2019 s. 11)*
 - (e) to approve and oversee the policies and activities of the Investigation Board, a Review Committee, and a committee established by the AFRC; *(Amended 3 of 2019 s. 11; 41 of 2021 s. 12)*
 - (f) to refer to a specified body any case or complaint concerning—
 - (i) any FR misconduct by a PIE auditor or registered responsible person of a registered PIE auditor; *(Replaced 3 of 2019 s. 11. Amended L.N. 66 of 2022)*

- (ii) the undertaking or carrying out of any PIE engagement or non-PIE engagement; *(Replaced 3 of 2019 s. 11. Amended 41 of 2021 s. 12)*
 - (iii) any relevant non-compliance in relation to a listed entity; or *(Added 3 of 2019 s. 11. Amended 41 of 2021 s. 12)*
 - (iv) any CPA misconduct by a professional person; *(Added 41 of 2021 s. 12)*
- (g) to provide assistance to a specified body on the body's request for assistance in dealing with any case or complaint concerning— *(Amended 3 of 2019 s. 11)*
- (i) any FR misconduct by a PIE auditor or registered responsible person of a registered PIE auditor; *(Replaced 3 of 2019 s. 11. Amended L.N. 66 of 2022)*
 - (ii) the undertaking or carrying out of any PIE engagement or non-PIE engagement; *(Replaced 3 of 2019 s. 11. Amended 41 of 2021 s. 12)*
 - (iii) any relevant non-compliance in relation to a listed entity; or *(Added 3 of 2019 s. 11. Amended 41 of 2021 s. 12)*
 - (iv) any CPA misconduct by a professional person; *(Added 41 of 2021 s. 12)*
- (ga) to take any steps that the AFRC considers appropriate to promote and support the development of the accountancy profession; and *(Added 41 of 2021 s. 12)*
- (h) to perform such other functions as are imposed on the AFRC under this or any other Ordinance. *(Amended 3 of 2019 s. 11; 41 of 2021 s. 12)*

10. Powers of AFRC

(Amended 3 of 2019 s. 12; 41 of 2021 s. 13)

- (1) The AFRC may do all such things as are necessary for, or incidental or conducive to, the performance of its functions. *(Amended 3 of 2019 s. 12; 41 of 2021 s. 13)*
- (1AA) Without limiting subsection (1), the AFRC may, for performing its functions under section 9(a), request the HKICPA to provide information that the AFRC reasonably requires. *(Added 41 of 2021 s. 13)*
- (1AAB) The HKICPA must comply with any request made under subsection (1AA). *(Added 41 of 2021 s. 13)*
- (1A) Without prejudice to subsections (1) and (1AA), the AFRC may, for performing its function under section 9(b)— *(Amended 41 of 2021 s. 13)*
- (a) request the HKICPA to provide information and periodic reports on the HKICPA's performance of a specified function;
 - (b) conduct assessment on the HKICPA's performance of a specified function; and
 - (c) if satisfied that it is in the public interest to do so, give written directions to the HKICPA on the performance of a specified function. *(Added 3 of 2019 s. 12)*
- (1B) The HKICPA must comply with any direction given under subsection (1A)(c). *(Added 3 of 2019 s. 12)*
- (2) Without prejudice to subsections (1), (1AA) and (1A), the AFRC may— *(Amended 3 of 2019 s. 12; 41 of 2021 s. 13)*
- (a) employ persons to assist the AFRC, the Investigation Board, a Review Committee, a committee established by the AFRC, or any or all of them, in the performance of its or their functions; *(Amended 41 of 2021 s. 13)*
 - (b) appoint persons as consultants, agents or advisers to assist the AFRC, the Investigation Board, a Review

Committee, a committee established by the AFRC, or any or all of them, in the performance of its or their functions; (*Amended 41 of 2021 s. 13*)

- (c) hold, acquire, lease, sell, charge, dispose of or otherwise deal with all kinds of property, whether movable or immovable;
- (d) enter into, carry out, assign or accept the assignment of, vary or rescind, any contract, agreement, memorandum of understanding or other obligation;
- (e) with the approval of the Secretary for Financial Services and the Treasury, borrow money on security or other conditions;
- (f) accept gifts;
- (g) receive and expend moneys;
- (h) publish or otherwise make available materials indicating to the public any matter relating or incidental to the performance by the AFRC of any of its functions; (*Amended 41 of 2021 s. 13*)
- (i) do all such things as the AFRC thinks fit in respect of its administration and management; and (*Amended 41 of 2021 s. 13*)
- (j) exercise such other powers as are conferred on the AFRC under this or any other Ordinance. (*Amended 3 of 2019 s. 12; 41 of 2021 s. 13*)

(3) In this section—

specified function (指明職能) means a function of the HKICPA mentioned in section 9(b). (*Added 3 of 2019 s. 12*)

10A. AFRC's powers to give directions

- (1) The AFRC may, in connection with the performance of a function under this Ordinance, give directions to professional

persons.

- (2) A direction under subsection (1) may require a professional person—
- (a) if the person is or was a certified public accountant—
 - (i) to produce or provide to the AFRC a document or information in connection with the registration of the person under the PA Ordinance as a certified public accountant; or
 - (ii) to deliver to the AFRC a certificate in the possession, custody or control of the person if the registration to which the certificate relates has ceased to be valid;
 - (b) if the person is or was a certified public accountant (practising)—
 - (i) to produce or provide to the AFRC a document or information in connection with the issue of a practising certificate to the person; or
 - (ii) to deliver to the AFRC a practising certificate in the possession, custody or control of the person if the practising certificate has ceased to be valid;
 - (c) if the person is or was a CPA firm—
 - (i) to produce or provide to the AFRC a document or information in connection with the registration of the firm name of the CPA firm; or
 - (ii) to deliver to the AFRC a certificate of registration in the possession, custody or control of the person if the registration to which the certificate relates has ceased to be valid; or
 - (d) if the person is or was a corporate practice—

- (i) to produce or provide to the AFRC a document or information in connection with the registration of the corporate practice; or
 - (ii) to deliver to the AFRC a certificate of registration in the possession, custody or control of the person if the registration to which the certificate relates has ceased to be valid.
- (3) Also, a direction under subsection (1) may require a professional person to give to the AFRC an explanation for an act or omission of the person that appears to the AFRC to be—
 - (a) conduct unbecoming of a professional person;
 - (b) conduct that may affect the reputation, integrity and status of the AFRC or of the accountancy profession; or
 - (c) conduct that may fall within section 3B.
- (4) Nothing in this section is to be taken to compel the production or provision by a person of any document or information containing privileged communication by or to a legal practitioner in that capacity.
- (5) For the purposes of sections 3B(1)(f)(ii) and 4(2)(a)(vi), (3)(b), (4)(b) and (5)(g), a direction given under subsection (1) is a direction lawfully given by the AFRC.
- (6) This section does not limit section 10.

(Added 41 of 2021 s. 14)

10B. Advisory Committee

- (1) There is to be an Advisory Committee to advise the AFRC on matters of policy regarding any of its regulatory objectives and functions.

- (2) The Advisory Committee is to be constituted in accordance with Part 4A of Schedule 2 and must conduct its business in accordance with that Part.
- (3) The Advisory Committee must meet at least once every 3 months to advise the AFRC.
- (4) The AFRC may request the Advisory Committee to advise it on matters of policy regarding any of its regulatory objectives and functions.

(Added 41 of 2021 s. 14)

11. Delegations

- (1) Subject to subsection (2), the AFRC may delegate, in writing, any of its functions to— *(Amended 3 of 2019 s. 13; 41 of 2021 s. 105)*
 - (a) a member of the AFRC;
 - (b) a committee established by the AFRC; or
 - (c) an employee of the AFRC, whether by reference to the employee's name or to the office held by the employee.
- (2) The AFRC must not delegate any of its functions specified in Schedule 3A. *(Replaced 3 of 2019 s. 13)*
- (3) If the AFRC delegates a function under this section, it may at the same time authorize the delegate to sub-delegate the function.
- (4) The AFRC may— *(Amended 3 of 2019 s. 13; 41 of 2021 s. 105)*
 - (a) revoke a delegation, or an authorization in respect of a sub-delegation, under this section;
 - (b) attach restrictions or conditions to a delegation under this section; or

- (c) attach restrictions or conditions to an authorization in respect of a sub-delegation under this section, including those on the exercise of power to sub-delegate.
- (5) A delegation or sub-delegation under this section does not prevent the AFRC or its delegate from concurrently performing the function delegated or sub-delegated.
- (6) If a person purports to act pursuant to a delegation or sub-delegation under this section, the person is presumed, unless the contrary is proved, to be acting in accordance with the terms of the delegation or sub-delegation.
- (7) Without prejudice to subsection (5), if there is a delegation or sub-delegation under this section in respect of a function of the AFRC, any reference in this or any other Ordinance to the AFRC in connection with the performance of the function is, unless the context otherwise requires, to be construed accordingly.

(Amended 3 of 2019 s. 13; 41 of 2021 s. 105)

12. Assistance, etc. to specified authorities under certain circumstances

- (1) If the AFRC is of the opinion that the conditions in subsection (2) are satisfied, it may, subject to subsections (4) and (5)—
(Amended 3 of 2019 s. 14; 41 of 2021 s. 15)
 - (a) refer to a specified authority any case or complaint concerning—
 - (i) any FR misconduct by a PIE auditor or registered responsible person of a registered PIE auditor;
(Replaced 3 of 2019 s. 14)
 - (ii) the undertaking or carrying out of any PIE engagement or non-PIE engagement; *(Replaced 3 of 2019 s. 14)*

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- (iii) any relevant non-compliance in relation to a listed entity; or *(Added 3 of 2019 s. 14)*
 - (iv) any CPA misconduct by a professional person; and *(Added 41 of 2021 s. 15)*
 - (b) provide assistance to a specified authority on the authority's request for assistance in dealing with any case or complaint concerning— *(Amended 3 of 2019 s. 14)*
 - (i) any FR misconduct by a PIE auditor or registered responsible person of a registered PIE auditor; *(Replaced 3 of 2019 s. 14)*
 - (ii) the undertaking or carrying out of any PIE engagement or non-PIE engagement; *(Replaced 3 of 2019 s. 14)*
 - (iii) any relevant non-compliance in relation to a listed entity; or *(Added 3 of 2019 s. 14)*
 - (iv) any CPA misconduct by a professional person. *(Added 41 of 2021 s. 15. Amended L.N. 66 of 2022)*
 - (2) The conditions are—
 - (a) the referral, or the provision of assistance, will enable or assist the specified authority to perform its functions; and
 - (b) it is not contrary to the interest of the investing public or to the public interest that the case or complaint should be referred or the assistance should be provided.
 - (3) In forming an opinion on the conditions set out in subsection (2) for the purposes of subsection (1)(b), the AFRC must take into account— *(Amended 3 of 2019 s. 14; 41 of 2021 s. 15)*

- (a) whether or not the specified authority will pay to the AFRC any of the costs and expenses incurred in providing the assistance; and
 - (b) whether or not the specified authority will be able and willing to provide reciprocal assistance.
- (4) If the specified authority falls within paragraph (a)(i) of the definition of ***specified authority*** in section 2(1), the AFRC must satisfy itself that— (*Amended 3 of 2019 s. 14; 41 of 2021 s. 15*)
- (a) the authority—
 - (i) performs any function similar to a function of the AFRC under section 9(a), (b), (c) or (d); or
 - (ii) regulates, supervises or investigates—
 - (A) accountants;
 - (B) banking, insurance or other financial services; or
 - (C) the affairs of corporations;
 - (b) the authority is subject to adequate secrecy provisions; and
 - (c) the case or complaint is referred, or the assistance is provided—
 - (i) with a view to the authority's performance of any of its regulatory, supervisory or investigatory function; or
 - (ii) otherwise for the purpose of such function.
- (5) If the specified authority falls within paragraph (a)(ii) of the definition of ***specified authority*** in section 2(1), the AFRC must satisfy itself that— (*Amended 3 of 2019 s. 14; 41 of 2021 s. 15*)

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- (a) the authority is subject to adequate secrecy provisions; and
 - (b) the case or complaint is referred, or the assistance is provided—
 - (i) with a view to the authority's taking of any disciplinary action, or conducting of any investigation, against any of the members or regulatees of the authority; or (*Amended L.N. 66 of 2022*)
 - (ii) otherwise for the purpose of such action or investigation.
- (6) If the AFRC has, for the purposes of subsection (4) or (5), satisfied itself that a specified authority falls within subsection (4)(a) and (b) or (5)(a), the AFRC must as soon as practicable thereafter cause the name of the authority to be published in the Gazette.
- (7) Despite anything in this Ordinance, if—
- (a) a person is required—
 - (i) to give any explanation or further particulars, or to answer a question, under section 20ZZJ or 25; or (*Replaced 3 of 2019 s. 14*)
 - (ii) to give any information or explanation under section 43(1); and (*Replaced 3 of 2019 s. 14*)
 - (iii)-(iv) (*Repealed 3 of 2019 s. 14*)
 - (b) the explanation, particulars, information or answer might tend to incriminate the person, and the person so claims before giving the explanation, particulars, information or answer,

the AFRC must not provide evidence of the requirement, as well as the explanation, particulars or information, or the question and answer, to a specified authority in a jurisdiction

outside Hong Kong for use in criminal proceedings against the person in that jurisdiction.

(Amended 3 of 2019 s. 14; 41 of 2021 s. 15)

13. AFRC may issue guidelines

(Amended 3 of 2019 s. 15; 41 of 2021 s. 16)

- (1) The AFRC may issue guidelines not inconsistent with this Ordinance— *(Amended 3 of 2019 s. 15; 41 of 2021 s. 16)*
 - (a) indicating the manner in which it proposes to perform its functions; or
 - (b) providing guidance on the operation of any provision of this Ordinance.
- (2) The AFRC must publish the guidelines in the Gazette. *(Amended 3 of 2019 s. 15; 41 of 2021 s. 16)*
- (3) The AFRC may amend or revoke any of the guidelines. Subsection (2) applies to such an amendment or revocation in the same way as it applies to the issue of a guideline. *(Amended 3 of 2019 s. 15; 41 of 2021 s. 16)*
- (4) A person does not incur any civil or criminal liability only because the person has contravened any of the guidelines. If, in any legal proceedings, the court or magistrate is satisfied that such a guideline is relevant to determining a matter that is in issue—
 - (a) the guideline is admissible in evidence in the proceedings; and
 - (b) proof that the person contravened or did not contravene the guideline may be relied on by any party to the proceedings as tending to establish or negate the matter.
- (5) A guideline issued under this section is not subsidiary legislation.

14. Directions of Chief Executive

- (1) After consultation with the chairperson of the AFRC, the Chief Executive may, if satisfied that it is in the public interest to do so, give the AFRC written directions the Chief Executive considers appropriate on the performance of any of the AFRC's functions. *(Replaced 3 of 2019 s. 16)*
- (2) The AFRC must comply with any direction given under subsection (1). *(Amended 3 of 2019 s. 16)*
- (3) If a direction is given under subsection (1), a requirement under an Ordinance that the AFRC must, for the purpose of performing any of the functions to which the direction relates— *(Amended 3 of 2019 s. 16; 41 of 2021 s. 17)*
 - (a) form any opinion;
 - (b) be satisfied as to any matter (including the existence of particular circumstances); or
 - (c) consult any person,does not apply for any purpose connected with the performance of functions pursuant to, or consequent upon, the direction.

(Amended 41 of 2021 s. 17)

15. AFRC to furnish information

(Amended 3 of 2019 s. 17; 41 of 2021 s. 18)

When required by the Secretary for Financial Services and the Treasury, the AFRC must furnish to the Secretary— *(Amended 3 of 2019 s. 17; 41 of 2021 s. 18)*

- (a) such information as the Secretary specifies on the principles, practices and policy the AFRC is pursuing or adopting, or proposes to pursue or adopt, in performing

any of the AFRC's functions; and (*Amended 3 of 2019 s. 17; 41 of 2021 s. 18*)

- (b) the reasons for pursuing or adopting, or proposing to pursue or adopt, those principles, practices and policy.

16. Exemption from taxation

The AFRC is exempt from taxation under the Inland Revenue Ordinance (Cap. 112).

(Amended 3 of 2019 s. 18; 41 of 2021 s. 105)

17. Financial years and estimates

- (1) Subject to subsection (2), the financial year of the AFRC begins on 1 April of each calendar year. (*Amended 41 of 2021 s. 105*)
- (2) The first financial year of the AFRC after the commencement[#] of section 23 of the 2019 Amending Ordinance (***first financial year***)— (*Amended 41 of 2021 s. 105*)
 - (a) begins on the 2019 Ordinance commencement date; and
 - (b) ends on the 31 March immediately after the first anniversary of that commencement date.
- (3) The AFRC must submit, for approval by the Financial Secretary, the estimates of its income and expenditure— (*Amended 41 of 2021 s. 105*)
 - (a) for the first financial year—as soon as practicable after the 2019 Ordinance commencement date;
 - (b) for the second financial year—before the 31 December immediately before the end of the first financial year; or
 - (c) for any other financial year—before 31 December of the preceding financial year.

(Replaced 3 of 2019 s. 19)

Editorial Note:

Commencement date: 1 October 2019.

18. Accounts

- (1) The AFRC must keep proper accounts and records of its transactions.
- (2) As soon as practicable after the end of each financial year of the AFRC, the AFRC must cause to be prepared for the financial year a statement of accounts of the AFRC that—
(Amended 3 of 2019 s. 20; 41 of 2021 s. 105)
 - (a) gives a true and fair view of—
 - (i) the state of affairs of the AFRC as at the end of that financial year; and
 - (ii) the results of the operations and cash flows of the AFRC in that financial year; and
 - (b) is signed by the chairperson, and the chief executive officer, of the AFRC.

(Amended 3 of 2019 s. 20; 41 of 2021 s. 105)

19. Director of Audit as auditor

- (1) The statement of accounts prepared under section 18(2) is to be audited by the Director of Audit who must make a report to the AFRC on the audit of that statement.
- (2) A report made under subsection (1) is to contain a statement by the Director of Audit as to whether in the Director's opinion the statement of accounts gives a true and fair view of the matters set out in section 18(2)(a)(i) and (ii).
- (3) The Director of Audit is entitled to have access to such books of account and other records of the AFRC as the Director

considers necessary to perform the Director's functions as the auditor of the AFRC.

- (4) The Director of Audit is entitled to require from any person holding, or accountable for, those books of account and records such information and explanation as the Director considers necessary to perform the Director's functions as the auditor of the AFRC.

(Amended 3 of 2019 s. 21; 41 of 2021 s. 105)

20. Reports and statement to be laid before Legislative Council

- (1) As soon as practicable after the end of each financial year of the AFRC, the AFRC must submit to the Financial Secretary— *(Amended 3 of 2019 s. 22; 41 of 2021 s. 105)*
- (a) a report on the activities of the AFRC for that financial year; *(Amended 41 of 2021 s. 105)*
 - (b) a copy of the statement of accounts prepared under section 18(2) for that financial year; and
 - (c) a copy of the report made under section 19(1) on the audit of that statement.
- (2) The Financial Secretary must cause the documents received under subsection (1) to be laid on the table of the Legislative Council.

(Amended 3 of 2019 s. 22)

Part 2A

Issue of Practising Certificate and Registration of Firm Name, Firm and Corporate Practice etc.

(Part 2A added 41 of 2021 s. 19)

Division 1—Issue of Practising Certificate to Certified Public Accountant

Subdivision 1—Application for Practising Certificate

20AA. Application

- (1) A certified public accountant may apply to the AFRC for a practising certificate.
- (2) The application must be made in the form and way specified by the AFRC.

20AAB. Decision on application

- (1) The AFRC may grant or refuse a practising certificate application.
- (2) The AFRC must not grant a practising certificate application unless it is satisfied that the applicant meets the requirements specified in section 20AAL.
- (3) The AFRC may grant a practising certificate application subject to the condition that the applicant must comply with the additional continuing professional development requirements set by the AFRC within a period specified by the AFRC.

20AAC. Notification of decision

- (1) The AFRC must inform the applicant for a practising certificate application of its decision on the application by written notice.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision.

20AAD. Issue of practising certificate

If the AFRC grants a practising certificate application, the AFRC must, on payment of the fee specified in Schedule 3B (if any), issue a practising certificate to the applicant in the form specified by the AFRC.

20AAE. Validity period of practising certificate

- (1) A practising certificate—
 - (a) takes effect—
 - (i) if the AFRC grants the practising certificate application—on the day specified in the notice from the AFRC under section 20AAC(1); or
 - (ii) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—on the day when the reversal of decision takes effect; and
 - (b) expires on 31 December of the year in which the practising certificate takes effect.
- (2) A practising certificate is renewable annually.

Subdivision 2—Renewal of Practising Certificate

20AAF. Application

- (1) A certified public accountant (practising) may apply to the AFRC for renewal of the accountant's practising certificate.

- (2) The application must be made no later than 15 December of the year in which the current practising certificate expires.
- (3) The application must be made in the form and way specified by the AFRC.

20AAG. Decision on application

- (1) The AFRC may grant or refuse a renewal application (practising certificate).
- (2) The AFRC must not grant a renewal application (practising certificate) unless it is satisfied that the applicant continues to meet the requirements specified in section 20AAL.
- (3) The AFRC may grant a renewal application (practising certificate) subject to the condition that the applicant must comply with the additional continuing professional development requirements set by the AFRC within a period specified by the AFRC.

20AAH. Notification of decision

- (1) The AFRC must inform the applicant for a renewal application (practising certificate) of its decision on the application by written notice.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision.

20AAI. Issue of practising certificate on renewal

If the AFRC grants a renewal application (practising certificate), the AFRC must, on payment of the fee specified in Schedule 3B (if any), issue a renewed practising certificate to the applicant in the form specified by the AFRC.

20AAJ. Current practising certificate remains in force until decision on renewal takes effect

- (1) This section applies if a renewal application (practising certificate) has been made but the application is not finally determined before the expiry of the current practising certificate.
- (2) Despite section 20AAE(1), the current practising certificate remains in force until—
 - (a) if the practising certificate is renewed—the day on which the renewal takes effect under section 20AAK; or
 - (b) if the application is refused—the day on which the refusal takes effect under Part 3C.

20AAK. Validity period of renewed practising certificate

The renewal of a practising certificate—

- (a) takes effect—
 - (i) if the AFRC grants the renewal application (practising certificate)—on the day specified in the notice from the AFRC under section 20AAH(1); or
 - (ii) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—on the day when the reversal of decision takes effect; and
- (b) expires on 31 December of the year in which the renewal takes effect.

Subdivision 3—Requirements for Issue or Renewal of Practising Certificate and Supplementary Provisions

20AAL. Requirements for issue or renewal of practising certificate

- (1) The requirements specified for the purposes of sections 20AAB(2) and 20AAG(2) are—
 - (a) the applicant—

- (i) has had not less than 30 months of full time approved accounting experience in one or more specified offices after—
 - (A) becoming a member of a specified accountancy body; or
 - (B) being registered as a certified public accountant; or
 - (ii) has had not less than 4 years of full time approved accounting experience in one or more specified offices and at least 1 year of that experience has been acquired after the applicant—
 - (A) has become a member of a specified accountancy body; or
 - (B) has been registered as a certified public accountant;
- (b) the applicant possesses the local experience and knowledge of local law and practice that the HKICPA Council considers necessary;
- (c) the applicant has complied with the continuing professional development requirements set by the HKICPA;
- (d) the applicant is ordinarily resident in Hong Kong;
- (e) the applicant is not bankrupt or has not entered into a voluntary arrangement (as defined by section 2 of the Bankruptcy Ordinance (Cap. 6)) with the applicant's creditors;
- (f) the applicant is not subject to—
 - (i) an order made by a Disciplinary Committee under the former section 35(1)(db) of the PA Ordinance; or

- (ii) a sanction imposed by the AFRC under section 37CA(2)(f);
 - (g) the applicant intends to practise as a certified public accountant (practising); and
 - (h) the applicant satisfies the fit and proper requirement to be a certified public accountant under the PA Ordinance.
- (2) For the purposes of subsection (1)(a), the HKICPA Council may require the whole or any part of the full time approved accounting experience mentioned in subsection (1)(a)(i) or (ii) to have been acquired within the period preceding the practising certificate application or renewal application (practising certificate) (as may be applicable) specified by the HKICPA Council.
- (3) For the purposes of subsection (1)(b), the HKICPA Council may—
 - (a) require the applicant to sit the examinations set by the HKICPA Council, which must include an examination in local law and taxation; and
 - (b) require the applicant to have had not less than 1 year of full time approved accounting experience in Hong Kong.
- (4) The AFRC may dispense with the requirements under subsection (1)(b) or (d) if the AFRC considers that the applicant has acquired substantial experience in accountancy, either in Hong Kong or elsewhere, over a period of time considered sufficient by the AFRC.
- (5) A person registered as a public accountant (as defined by section 2(1) of the PA Ordinance) immediately before the relevant day (as defined by section 2(1) of that Ordinance) is exempted from meeting the requirements under subsection (1)(a), (b) and (d).

(6) For the purposes of subsection (1)(d), a person is regarded as ordinarily resident in Hong Kong if the person has been present in Hong Kong for not less than 180 days during the period of 12 months preceding the practising certificate application or renewal application (practising certificate) (as may be applicable).

(7) In this section—

approved accounting experience (認可會計經驗) means the professional accountancy experience approved as sufficient practical experience by the HKICPA Council;

former section 35(1)(db) of the PA Ordinance (《專業會計師條例》原有第35(1)(db)條) means section 35(1)(db) of the PA Ordinance as in force immediately before the 2021 Ordinance commencement date;

specified accountancy body (指明會計團體) means—

- (a) an accountancy body between which and the HKICPA there is in force an agreement of mutual or reciprocal recognition; or
- (b) an accountancy body accepted by the HKICPA Council as described in section 24(1A) of the PA Ordinance;

specified office (指明辦事處) means the office of—

- (a) a certified public accountant (practising); or
- (b) a person practising public accountancy in the jurisdiction of a specified accountancy body.

20AAM. Applicant to provide information

(1) An applicant for a practising certificate application or renewal application (practising certificate) must provide the AFRC with the information that the AFRC reasonably requires to enable it to consider the application.

- (2) In considering the application, the AFRC may have regard to any information in its possession (whether or not provided by the applicant).

20AAN. Offence of fraudulent procurement of issue of practising certificate

- (1) A person commits an offence if the person fraudulently procures the issue of a practising certificate under this Division to the person or any other person by means of any misleading, false or fraudulent representation or statement, whether made orally or in writing.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 12 months.

Subdivision 4—Cancellation or Suspension of Practising Certificate

20AAO. Cancellation or suspension of practising certificate on non-disciplinary grounds

- (1) The AFRC may cancel the practising certificate held by a certified public accountant (practising) if—
- (a) the accountant fails to commence practice within 6 months after the date of issue of the practising certificate; or
 - (b) the accountant has become bankrupt or has entered into a voluntary arrangement (as defined by section 2 of the Bankruptcy Ordinance (Cap. 6)) with the accountant's creditors.
- (2) The AFRC may cancel or suspend the practising certificate held by a certified public accountant (practising) if—
- (a) the accountant requests the AFRC to do so;

- (b) the AFRC is satisfied that the practising certificate has been issued—
 - (i) by mistake; or
 - (ii) in consequence of any misleading, false or fraudulent statement, declaration or representation, whether made orally or in writing; or
 - (c) the AFRC is of the opinion that the accountant has failed to comply with any condition imposed under section 20AAB(3) or 20AAG(3) regarding the additional continuing professional development requirements.
- (3) For the purposes of subsection (2), the AFRC may suspend the practising certificate held by a certified public accountant (practising) for a period of time, or until the occurrence of an event, that the AFRC considers appropriate.

20AAP. Notification of cancellation or suspension of practising certificate

- (1) If the AFRC decides to cancel or suspend the practising certificate held by a certified public accountant (practising) under section 20AAO(1) or (2), the AFRC must inform the accountant of its decision by written notice.
- (2) The notice must include a statement of the reasons for the decision.

Subdivision 5—Obligations of Certified Public Accountant (Practising)

20AAQ. Obligation to have registered office

- (1) A certified public accountant (practising) must have a registered office in Hong Kong to which all communications and notices may be addressed.

- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

20AAR. Obligation to inform AFRC of changes in particulars

- (1) If there is a change in any of the specified particulars of a certified public accountant (practising), the certified public accountant (practising) must, within 14 days after the day on which the change takes place, inform the AFRC of the change by written notice.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.
- (3) In this section—
- specified particulars* (指明詳情) means—
- (a) full name;
 - (b) address of registered office;
 - (c) telephone number; and
 - (d) electronic mail address.

Division 2—Registration of Firm Name or Firm

Subdivision 1—Application for Registration of Firm Name or Firm

20AAS.Application

- (1) A certified public accountant (practising) who intends to practise accountancy on the accountant's own account under a firm name may apply to the AFRC for registration of the firm name.

- (2) A firm of certified public accountants (practising) that intends to practise accountancy in partnership may apply to the AFRC for registration of the firm (including the firm name).
- (3) The application under subsection (1) or (2) must—
 - (a) be made in the form and way specified by the AFRC; and
 - (b) be accompanied by the fee specified in Schedule 3B (if any).

20AAT. Decision on application

- (1) The AFRC may grant or refuse a registration application (CPA firm).
- (2) The AFRC must not grant a registration application (CPA firm) unless it is satisfied that the applicant meets the requirements—
 - (a) in relation to a firm name—specified in section 20AAZD; or
 - (b) in relation to the composition of a firm (if applicable)—specified in section 20AAZE.

20AAU. Notification of decision

- (1) The AFRC must inform the applicant for a registration application (CPA firm) of its decision on the application by written notice.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision.

20AAV. Issue of certificate of registration

If the AFRC grants a registration application (CPA firm), the AFRC must issue a certificate of registration to the applicant in the form specified by the AFRC.

20AAW. Validity period of registration

- (1) The registration of a firm name or firm—
 - (a) takes effect—
 - (i) if the AFRC grants the registration application (CPA firm)—on the day specified in the notice from the AFRC under section 20AAU(1); or
 - (ii) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—on the day when the reversal of decision takes effect; and
 - (b) expires on 31 December of the year in which the registration takes effect.
- (2) The registration of a firm name or firm is renewable annually.

Subdivision 2—Renewal of Registration of Firm Name or Firm

20AAX. Application

- (1) A certified public accountant (practising) who practises accountancy on the accountant's own account under a firm name registered under this Division may apply to the AFRC for renewal of the registration of the firm name.
- (2) A firm of certified public accountants (practising) that—
 - (a) practises accountancy in partnership; and
 - (b) is registered under this Division,may apply to the AFRC for renewal of the registration of the firm (including the firm name).
- (3) The application under subsection (1) or (2) must be made no later than—

- (a) 15 December of the year in which the current registration expires; or
 - (b) a later day approved by the AFRC either generally or in respect of a particular application.
- (4) The application must—
- (a) be made in the form and way specified by the AFRC; and
 - (b) be accompanied by the fee specified in Schedule 3B (if any).

20AAY. Decision on application

- (1) The AFRC may grant or refuse a renewal application (CPA firm registration).
- (2) The AFRC must not grant a renewal application (CPA firm registration) unless it is satisfied that the applicant continues to meet the requirements—
 - (a) in relation to a firm name—specified in section 20AAZD; or
 - (b) in relation to the composition of a firm (if applicable)—specified in section 20AAZE.

20AAZ. Notification of decision

- (1) The AFRC must inform the applicant for a renewal application (CPA firm registration) of its decision on the application by written notice.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision.

20AAZA. Issue of certificate of registration on renewal

If the AFRC grants a renewal application (CPA firm registration), the AFRC must issue a renewed certificate of registration to the

applicant in the form specified by the AFRC.

20AAZB. Current registration remains in force until decision on renewal takes effect

- (1) This section applies if a renewal application (CPA firm registration) has been made but the application is not finally determined before the expiry of the current registration.
- (2) Despite section 20AAW(1), the current registration remains in force until—
 - (a) if the registration is renewed—the day on which the renewal takes effect under section 20AAZC; or
 - (b) if the application is refused—the day on which the refusal takes effect under Part 3C.

20AAZC. Validity period of renewed registration

The renewal of registration of a firm name or firm—

- (a) takes effect—
 - (i) if the AFRC grants the renewal application (CPA firm registration)—on the day specified in the notice from the AFRC under section 20AAZ(1); or
 - (ii) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—on the day when the reversal of decision takes effect; and
- (b) expires on 31 December of the year in which the renewal takes effect.

Subdivision 3—Registration Requirements and Supplementary Provisions

20AAZD. Registration requirements—firm name

The requirements specified for the purposes of sections 20AAT(2)(a) and 20AAY(2)(a) are that the firm name under which the applicant intends to practise or practises—

- (a) is not the same as a firm name already registered under this Division;
- (b) does not, in the opinion of the AFRC, so nearly resemble a firm name already registered under this Division as to be likely to cause confusion; and
- (c) is not, in the opinion of the AFRC, misleading, offensive or otherwise contrary to the public interest.

20AAZE. Registration requirements—firm composition

The requirements specified for the purposes of sections 20AAT(2)(b) and 20AAY(2)(b) are that, in relation to a firm of certified public accountants (practising) that intends to practise or practises accountancy in partnership—

- (a) all the partners are certified public accountants; and
- (b) at least a proportion of the partners, as specified by the AFRC, is a certified public accountant (practising) or are certified public accountants (practising).

20AAZF. Applicant to provide information

- (1) An applicant for a registration application (CPA firm) or renewal application (CPA firm registration) must provide the AFRC with the information that the AFRC reasonably requires to enable it to consider the application.
- (2) In considering the application, the AFRC may have regard to any information in its possession (whether or not provided by the applicant).

20AAZG. Offence of fraudulent procurement of registration of firm name or firm

- (1) A person commits an offence if the person fraudulently procures the registration of a firm name or firm under this Division by means of any misleading, false or fraudulent representation or statement, whether made orally or in writing.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 12 months.

Subdivision 4—Revocation or Suspension of Registration of Firm Name or Firm

20AAZH. Revocation or suspension of registration on non-disciplinary grounds

- (1) The AFRC must revoke the registration of the firm name under which a certified public accountant (practising) practises accountancy on the accountant's own account if—
 - (a) the accountant dies; or
 - (b) the accountant ceases to be a certified public accountant (practising).
- (2) The AFRC must revoke the registration of a firm of certified public accountants (practising) that practises accountancy in partnership, and of the firm name under which the firm practises, if—
 - (a) the firm ceases to operate and the partnership is dissolved; or
 - (b) the firm ceases to be a firm of certified public accountants (practising).
- (3) The AFRC may revoke or suspend the registration of a firm name or firm if—
 - (a) the CPA firm requests the AFRC to do so; or

- (b) the AFRC is satisfied that the CPA firm has been registered—
 - (i) by mistake; or
 - (ii) in consequence of any misleading, false or fraudulent statement, declaration or representation, whether made orally or in writing.
- (4) For the purposes of subsection (3), the AFRC may suspend the registration of a firm name or firm for a period of time, or until the occurrence of an event, that the AFRC considers appropriate.

20AAZI. Notification of revocation or suspension of registration

- (1) If the AFRC decides to revoke or suspend the registration of a firm name or firm under section 20AAZH(1), (2) or (3), the AFRC must inform the CPA firm of its decision by written notice.
- (2) The notice must include a statement of the reasons for the decision.

20AAZJ. Effect of revocation or suspension of registration

- (1) If the registration of a firm name or firm is revoked under section 20AAZH(1), (2) or (3) or 37CA(2)(d)(i), the certificate of registration issued to the CPA firm under section 20AAV or 20AAZA is cancelled with effect from the date on which the revocation takes effect.
- (2) If the registration of a firm name or firm is suspended under section 20AAZH(3) or 37CA(2)(d)(ii), the certificate of registration issued to the CPA firm under section 20AAV or 20AAZA is suspended during the period in which the suspension of registration is in effect.

Subdivision 5—Obligations of CPA Firm

20AAZK. Obligation to have registered office

- (1) A CPA firm must have a registered office in Hong Kong to which all communications and notices may be addressed.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

20AAZL. Obligation to inform AFRC of changes in particulars

- (1) If there is a change in any of the specified particulars of a CPA firm, the CPA firm must, within 14 days after the day on which the change takes place, inform the AFRC of the change by written notice.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.
- (3) In this section—
specified particulars (指明詳情) means—
 - (a) full name;
 - (b) address of registered office;
 - (c) telephone number; and
 - (d) electronic mail address.

Division 3—Registration of Corporate Practice

Subdivision 1—Application for Registration of Corporate Practice

20AAZM. Application

- (1) A company may apply to the AFRC to be registered as a corporate practice.

- (2) The application must—
 - (a) be made in the form and way specified by the AFRC; and
 - (b) be accompanied by the fee specified in Schedule 3B (if any).

20AAZN. Decision on application

- (1) The AFRC may grant or refuse a registration application (corporate practice).
- (2) The AFRC must not grant a registration application (corporate practice) unless it is satisfied that the applicant meets the requirements specified in section 20AAZX.

20AAZO. Notification of decision

- (1) The AFRC must inform the applicant for a registration application (corporate practice) of its decision on the application by written notice.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision.

20AAZP. Issue of certificate of registration

If the AFRC grants a registration application (corporate practice), the AFRC must issue a certificate of registration to the applicant in the form specified by the AFRC.

20AAZQ. Validity period of registration

- (1) The registration of a company as a corporate practice—
 - (a) takes effect—
 - (i) if the AFRC grants the company's registration application (corporate practice)—on the day

- specified in the notice from the AFRC under section 20AAZO(1); or
- (ii) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—on the day when the reversal of decision takes effect; and
- (b) expires on 31 December of the year in which the registration takes effect.
- (2) The registration of a company as a corporate practice is renewable annually.

Subdivision 2—Renewal of Registration of Corporate Practice

20AAZR. Application

- (1) A corporate practice may apply to the AFRC for renewal of its registration.
- (2) The application must be made no later than—
 - (a) 15 December of the year in which the current registration expires; or
 - (b) a later day approved by the AFRC either generally or in respect of a particular application.
- (3) The application must—
 - (a) be made in the form and way specified by the AFRC; and
 - (b) be accompanied by the fee specified in Schedule 3B (if any).

20AAZS. Decision on application

- (1) The AFRC may grant or refuse a renewal application (corporate practice registration).

- (2) The AFRC must not grant a renewal application (corporate practice registration) unless it is satisfied that the applicant continues to meet the requirements specified in section 20AAZX.

20AAZT. Notification of decision

- (1) The AFRC must inform the applicant for a renewal application (corporate practice registration) of its decision on the application by written notice.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision.

20AAZU. Issue of certificate of registration on renewal

If the AFRC grants a renewal application (corporate practice registration), the AFRC must issue a renewed certificate of registration to the applicant in the form specified by the AFRC.

20AAZV. Current registration remains in force until decision on renewal takes effect

- (1) This section applies if a renewal application (corporate practice registration) has been made but the application is not finally determined before the expiry of the current registration.
- (2) Despite section 20AAZQ(1), the current registration remains in force until—
 - (a) if the registration is renewed—the day on which the renewal takes effect under section 20AAZW; or
 - (b) if the application is refused—the day on which the refusal takes effect under Part 3C.

20AAZW. Validity period of renewed registration

The renewal of registration of a corporate practice—

- (a) takes effect—
 - (i) if the AFRC grants the practice's renewal application (corporate practice registration)—on the day specified in the notice from the AFRC under section 20AAZT(1); or
 - (ii) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—on the day when the reversal of decision takes effect; and
- (b) expires on 31 December of the year in which the renewal takes effect.

Subdivision 3—Registration Requirements and Supplementary Provisions

20AAZX. Registration requirements

- (1) This section sets out the requirements specified for the purposes of sections 20AAZN(2) and 20AAZS(2).
- (2) The applicant is a company—
 - (a) limited by shares; and
 - (b) of which every member and every director is a natural person.
- (3) If the applicant is a company that has only 1 member, both of the following conditions are met—
 - (a) the member is a certified public accountant (practising);
 - (b) the member is the only director of the company.
- (4) If the applicant is a company that has 2 or more members, all of the following conditions are met—
 - (a) each member is a certified public accountant;

- (b) at least a proportion of the members, as specified by the AFRC, is a certified public accountant (practising) or are certified public accountants (practising);
 - (c) each member is a director of the company;
 - (d) no person other than a member of the company is a director of the company.
- (5) The applicant meets the professional indemnity requirements set out in section 20AAZY.
- (6) The articles of association of the applicant—
 - (a) comply with the requirements of the rules made under section 51 of the PA Ordinance (if any); and
 - (b) include articles that are appropriate to the applicant having regard to the requirements specified in subsections (3) and (4).
- (7) The company name under which the applicant intends to practise or practises—
 - (a) is not the same as a company name of a corporate practice already registered under this Division;
 - (b) does not, in the opinion of the AFRC, so nearly resemble a company name of a corporate practice already registered under this Division as to be likely to cause confusion; and
 - (c) is not, in the opinion of the AFRC, misleading, offensive or otherwise contrary to the public interest.
- (8) To avoid doubt, nothing in subsections (3) and (4) is to be construed as repealing by implication, or otherwise affecting, any provision of Part IVA of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) in its application to a director of a company.

20AAZY. Professional indemnity requirements for section 20AAZX(5)

- (1) The professional indemnity requirements for the purposes of section 20AAZX(5) are that—
 - (a) the applicant under section 20AAZX is to be or is covered by professional indemnity insurance provided by an approved insurer;
 - (b) the insurance is provided—
 - (i) on terms specified in the PAO rules; or
 - (ii) if the terms are not so specified—on terms that have been approved by the HKICPA Council; and
 - (c) the applicant is covered by the insurance at least to the extent required by the PAO rules.

- (2) In this section—

approved insurer (認可保險人) means an insurer who is approved by the HKICPA Council to provide professional indemnity insurance to a corporate practice;

PAO rules (《規則》) means the rules made under section 51 of the PA Ordinance.

20AAZZ. Applicant to provide information

- (1) An applicant for a registration application (corporate practice) or renewal application (corporate practice registration) must provide the AFRC with the information that the AFRC reasonably requires to enable it to consider the application.
- (2) In considering the application, the AFRC may have regard to any information in its possession (whether or not provided by the applicant).

20AAZZA. Offence of fraudulent procurement of registration of corporate practice

- (1) A person commits an offence if the person fraudulently procures the registration of the person or any other person

as a corporate practice under this Division by means of any misleading, false or fraudulent representation or statement, whether made orally or in writing.

- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 12 months.

Subdivision 4—Revocation or Suspension of Registration of Corporate Practice

20AAZZB. Revocation or suspension of registration on non-disciplinary grounds

- (1) The AFRC must revoke the registration of a corporate practice if the practice has commenced to be wound up.
- (2) The AFRC may revoke the registration of a corporate practice if the practice ceases to be a company described in section 20AAZX(2).
- (3) The AFRC may revoke or suspend the registration of a corporate practice if—
 - (a) the practice requests the AFRC to do so; or
 - (b) the AFRC is satisfied that the practice has been registered—
 - (i) by mistake; or
 - (ii) in consequence of any misleading, false or fraudulent statement, declaration or representation, whether made orally or in writing.
- (4) For the purposes of subsection (3), the AFRC may suspend the registration of a corporate practice for a period of time, or until the occurrence of an event, that the AFRC considers appropriate.

20AAZZC. Notification of revocation or suspension of registration

- (1) If the AFRC decides to revoke or suspend the registration of a corporate practice under section 20AAZZB(1), (2) or (3), the AFRC must inform the practice of its decision by written notice.
- (2) The notice must include a statement of the reasons for the decision.

20AAZZD. Effect of revocation or suspension of registration

- (1) If the registration of a corporate practice is revoked under section 20AAZZB(1), (2) or (3) or 37CA(2)(d)(i), the certificate of registration issued to the practice under section 20AAZP or 20AAZU is cancelled with effect from the date on which the revocation takes effect.
- (2) If the registration of a corporate practice is suspended under section 20AAZZB(3) or 37CA(2)(d)(ii), the certificate of registration issued to the practice under section 20AAZP or 20AAZU is suspended during the period in which the suspension of registration is in effect.

Subdivision 5—Obligations of Corporate Practice

20AAZZE. Obligation to have registered office

- (1) A corporate practice must have a registered office (within the meaning of the Companies Ordinance (Cap. 622)) in Hong Kong to which all communications and notices may be addressed.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.

20AAZZF. Obligation to inform AFRC of changes in particulars

- (1) If there is a change in any of the specified particulars of a corporate practice, the practice must, within 14 days after the day on which the change takes place, inform the AFRC of the change by written notice.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 2.
- (3) In this section—

specified particulars (指明詳情) means—

- (a) full name;
- (b) address of registered office;
- (c) telephone number; and
- (d) electronic mail address.

20AAZZG. Obligation to inform AFRC of cessation to comply with certain requirements

- (1) This section applies if a corporate practice ceases to comply with a requirement specified in section 20AAZX(2), (3), (4), (5) or (6) (*requirement concerned*).
- (2) The corporate practice must, within 14 days after the day on which the cessation begins, inform the AFRC of the cessation by written notice.
- (3) On receipt of the notice, the AFRC may—
 - (a) impose any condition in relation to the registration of the corporate practice for the purpose of requiring the practice to comply with the requirement concerned; and
 - (b) record the condition in the AFRC register in the way it considers appropriate.

- (4) The corporate practice must comply with the condition imposed by the AFRC within the period specified by the AFRC.
- (5) A person who, without reasonable excuse, contravenes subsection (4) commits an offence and is liable on conviction to a fine at level 4.

20AAZZH. Obligation to inform AFRC of proposed amendment to articles of association

- (1) This section applies if it is proposed to amend the articles of association of a corporate practice (*proposal*) at a meeting of the members of the practice (*members' meeting*).
- (2) The corporate practice must inform the AFRC of the proposal by written notice.
- (3) The notice mentioned in subsection (2) must be sent to the AFRC no later than the day on which notice of the members' meeting is given to the members of the corporate practice.
- (4) If the proposal is approved by passing a special resolution at the members' meeting, the practice must inform the AFRC of the approval by written notice.
- (5) The notice mentioned in subsection (4) must be sent to the AFRC within 21 days beginning on the date on which the special resolution is passed.
- (6) If a corporate practice fails to comply with the requirement specified in subsection (2) or (4), the AFRC may—
 - (a) revoke the registration of the practice; or
 - (b) suspend the registration of the practice for a period of time, or until the occurrence of an event, that the AFRC considers appropriate.

- (7) If the AFRC decides to revoke or suspend the registration of the practice under subsection (6), the AFRC must inform the practice of its decision by written notice.
- (8) The notice must include a statement of the reasons for the decision.

Division 4—Register of Certified Public Accountants (Practising), CPA Firms and Corporate Practices

20AAZZI. AFRC to establish and maintain register of certified public accountants (practising), CPA firms and corporate practices

- (1) The AFRC must establish and maintain, in a form it considers appropriate, a register of—
 - (a) certified public accountants (practising);
 - (b) CPA firms; and
 - (c) corporate practices.
- (2) The register must contain, in relation to each certified public accountant (practising)—
 - (a) the full name of the accountant;
 - (b) the address of the registered office of the accountant;
 - (c) the qualification because of which the practising certificate is issued to the accountant; and
 - (d) any other particulars the AFRC considers appropriate.
- (3) The register must contain, in relation to each CPA firm—
 - (a) the full name of the firm;
 - (b) the address of the registered office of the firm; and
 - (c) any other particulars the AFRC considers appropriate.

- (4) The register must contain, in relation to each corporate practice—
- (a) the full name of the practice;
 - (b) the address of the registered office of the practice; and
 - (c) any other particulars the AFRC considers appropriate.

20AAZZJ. Inspection of AFRC register etc.

- (1) A person may, at all reasonable times—
- (a) if the AFRC register is kept in a documentary form—inspect the register free of charge; or
 - (b) if the AFRC register is kept otherwise than in a documentary form—inspect a reproduction of any information recorded in the register in a legible form free of charge.
- (2) A person may, at all reasonable times and on payment of the fee specified in Schedule 3B, obtain—
- (a) a copy of an entry in, or an extract of, the AFRC register; or
 - (b) a copy of the entry or extract certified by an authorized officer of the AFRC as a true copy of the entry or extract.
- (3) A right under subsection (1) or (2) is only exercisable for enabling a person—
- (a) to ascertain whether the person is dealing with—
 - (i) a certified public accountant (practising);
 - (ii) a CPA firm; or
 - (iii) a corporate practice; or
 - (b) to ascertain the particulars of—
 - (i) a certified public accountant (practising);

- (ii) a CPA firm; or
 - (iii) a corporate practice.
- (4) In any legal proceedings—
 - (a) a document purporting—
 - (i) to be a copy of an entry in, or an extract of, the AFRC register; and
 - (ii) to be certified by an authorized officer of the AFRC as a true copy of the entry or extract, is admissible in evidence on its production without further proof; and
 - (b) unless there is evidence to the contrary, on being admitted in evidence under paragraph (a), the document—
 - (i) is presumed to be certified by an authorized officer of the AFRC;
 - (ii) is presumed to be a true copy of the entry or extract; and
 - (iii) is proof of its content.
- (5) The AFRC must, as far as practicable, make the AFRC register available to any person for inspection free of charge on the Internet.

20AAZZK. Offence of falsifying AFRC register

- (1) A person commits an offence if the person falsifies or causes to be falsified the AFRC register.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 12 months.

Division 5—Prohibitions and Related Offences

20AAZZL. Prohibition on pretending to be or practising as certified public accountant (practising) etc.

- (1) A person who is not a certified public accountant (practising) must not pretend to be qualified to practise as a certified public accountant (practising).
- (2) A person who is not a certified public accountant (practising) must not take or use any name, initials, title, addition or description implying that the person is qualified to practise as a certified public accountant (practising).
- (3) A person who is not a certified public accountant (practising) must not, either directly or indirectly, practise as a certified public accountant (practising).
- (4) A person who—
 - (a) contravenes subsection (1); or
 - (b) without reasonable excuse, contravenes subsection (2) or (3),commits an offence.
- (5) A person who commits an offence under subsection (4) is liable on conviction to a fine at level 4 and to imprisonment for 12 months.

20AAZZM. Prohibition on signing audit report without practising certificate

- (1) A person must not sign an audit report unless the person is a certified public accountant (practising).
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 12 months.

20AAZZN. Prohibition on advertising etc. as certified public

accountant (practising) or CPA firm or taking certain descriptions

- (1) A person that is not a certified public accountant (practising) or CPA firm must not—
 - (a) advertise or represent himself, herself or itself as being qualified to practise as a certified public accountant (practising) or CPA firm;
 - (b) publish that the person is qualified to practise as a certified public accountant (practising) or CPA firm; or
 - (c) knowingly permit himself, herself or itself to be so advertised, represented or published.
- (2) A person that is not a certified public accountant (practising) or CPA firm must not—
 - (a) take the description—
 - (i) “certified public accountant (practising)”;
 - (ii) “public accountant”;
 - (b) use the description mentioned in paragraph (a) in conjunction with—
 - (i) the person’s name;
 - (ii) a name that the person may have assumed; or
 - (iii) a name by which the person may describe himself, herself or itself.
- (3) A person that is not a certified public accountant (practising) or CPA firm must not use in conjunction with the person’s name—
 - (a) the abbreviation “CPA (practising)”;
 - (b) the initials “PA”; or
 - (c) the characters—
 - (i) “執業會計師”;

- (ii) “註冊核數師”;
 - (iii) “核數師”; or
 - (iv) “審計師”.
- (4) A person that is not a certified public accountant (practising) or CPA firm must not knowingly permit the use of, or use, in connection with the person’s business, trade, calling or profession—
- (a) the description mentioned in subsection (2)(a)(i) or (ii);
 - (b) the abbreviation mentioned in subsection (3)(a);
 - (c) the initials mentioned in subsection (3)(b); or
 - (d) the characters mentioned in subsection (3)(c).
- (5) A person who—
- (a) without reasonable excuse, contravenes subsection (1)(a) or (b), (2) or (3); or
 - (b) contravenes subsection (1)(c) or (4), commits an offence.
- (6) A person who commits an offence under subsection (5) is liable on conviction to a fine at level 4 and to imprisonment for 12 months.

20AAZZO. Prohibition on holding out as corporate practice or taking certain descriptions

- (1) A corporation that is not a corporate practice must not provide, offer to provide, or hold itself out as providing, any professional service that only a practice unit may lawfully provide.
- (2) A corporation that is not a corporate practice must not—
- (a) advertise or represent itself as being qualified to practise as a practice unit;

-
- (b) publish that it is qualified to practise as a practice unit;
or
 - (c) permit itself to be so advertised, represented or published.
 - (3) A corporation that is not a corporate practice must not use in conjunction with its name—
 - (a) the description “certified public accountant (practising)”;
or
 - (b) the description “public accountant”.
 - (4) A corporation that is not a corporate practice must not use in conjunction with its name—
 - (a) the abbreviation “CPA (practising)”;
 - (b) the initials “PA”; or
 - (c) the characters—
 - (i) “執業會計師”;
 - (ii) “註冊核數師”;
 - (iii) “核數師”; or
 - (iv) “審計師”.
 - (5) A corporation that is not a corporate practice must not permit the use of, or use, in connection with its business—
 - (a) the description mentioned in subsection (3)(a) or (b);
 - (b) the abbreviation mentioned in subsection (4)(a);
 - (c) the initials mentioned in subsection (4)(b); or
 - (d) the characters mentioned in subsection (4)(c).
 - (6) A corporation that is not a corporate practice must not include in, or use in conjunction with, its name—
 - (a) the description “certified public accountant” (other than as part of the description referred to in subsection (3)(a));

- (b) the initials “CPA” (other than as part of the abbreviation referred to in subsection (4)(a)); or
 - (c) the characters “會計師” (other than as part of the characters referred to in subsection (4)(c)(i)),
with the intention of causing, or in a way that may reasonably cause, a person to believe that it is a practice unit.
- (7) A person who—
- (a) without reasonable excuse, contravenes subsection (1), (2), (3), (4) or (5); or
 - (b) contravenes subsection (6),
commits an offence.
- (8) A person who commits an offence under subsection (7) is liable on conviction to a fine at level 4.

20AAZZP. Sections 20AAZZN and 20AAZZO do not apply to member of non-Hong Kong accountancy body

- (1) This section applies to a person who is a member of a non-Hong Kong accountancy body but is not a certified public accountant.
- (2) If—
- (a) a person uses a description or initials that the person is entitled to use under the constitution of a non-Hong Kong accountancy body of which the person is a member; and
 - (b) by such use the person does not represent that the person is—
 - (i) a certified public accountant; or
 - (ii) entitled to practise as a certified public accountant (practising), CPA firm or corporate practice,

sections 20AAZZN and 20AAZZO do not apply in relation to such use.

(3) In this section—

non-Hong Kong accountancy body (外地會計團體) means a body or institute of accountants outside Hong Kong.

20AAZZQ. Liability of officer of corporation for certain offences

(1) If—

(a) the person who commits an offence under section 20AAZZE(2), 20AAZZF(2), 20AAZZG(5) or 20AAZZO(7) is a corporation; and

(b) it is proved that the act or omission constituting the offence was that of an officer of the corporation,
the officer also commits the offence.

(2) A person who commits an offence under section 20AAZZE(2) or 20AAZZF(2) because of subsection (1) is liable on conviction to a fine at level 2.

(3) A person who commits an offence under section 20AAZZG(5) or 20AAZZO(7) because of subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 12 months.

(4) It is a defence for a person charged with an offence under this section (except in respect of the relevant offence) to establish that the person had a reasonable excuse for the act or omission.

(5) The person is to be taken to have established that the person had a reasonable excuse for the act or omission if—

(a) sufficient evidence is adduced to raise an issue that the person had such a reasonable excuse; and

(b) the contrary is not proved by the prosecution beyond reasonable doubt.

(6) In this section—

relevant offence (有關罪行) means an offence under section 20AAZZO(7) for the contravention of section 20AAZZO(6).

20AAZZR. Prohibition on holding appointment or rendering services and recovering fees etc.

(1) A person that is not a certified public accountant (practising), a CPA firm or a corporate practice must not hold any appointment or render any services, whether paid or unpaid, as—

(a) an auditor of a company within the meaning of the Companies Ordinance (Cap. 622); or

(b) an auditor of accounts for the purposes of any other Ordinance.

(2) The AFRC may, on application, exempt a person from the operation of subsection (1)(b).

(3) A person is entitled to recover any fees, remuneration or expenses for, or in respect of, any appointment held or services rendered by the person as a certified public accountant (practising) or a corporate practice only if the person is a certified public accountant (practising) or a corporate practice (as appropriate).

20AAZZS. Division 5 does not prevent certain acts

To avoid doubt, this Division does not—

(a) prevent a person from—

(i) practising publicly as, or describing himself, herself or itself as, an accountant, secretary, book-keeper, tax-agent, tax-consultant or cost-consultant;

- (ii) describing himself or herself by any other designations, abbreviations, initials or characters that do not convey the impression that the person is entitled to practise as a certified public accountant (practising); or
 - (iii) acting as an auditor of a registered trade union within the meaning of the Trade Unions Ordinance (Cap. 332) with the approval of the Registrar of Trade Unions appointed under that Ordinance; or
 - (b) prevent a member of a club, institution or association that is not carried on with a view to profit from acting as an auditor of the club, institution or association.
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Part 3

Registration and Recognition of PIE Auditors

(Part 3 added 3 of 2019 ss. 23 & 24)

Division 1—Interpretation

20A. Interpretation

In this Part—

chief executive officer (行政總裁), in relation to a practice unit, means the person (by whatever name called) who is responsible (whether alone or jointly with others) for implementing the general strategy and general management of the business of the unit;

Mainland corporation (內地法團) means a company or body corporate incorporated in the Mainland of China;

managing board of partners (合夥人管理會), in relation to a practice unit, means a group of partners forming a board (by whatever name called) which is responsible for implementing the general strategy and general management of the business of the unit;

registered engagement partner (註冊項目合夥人), in relation to a registered PIE auditor, means an individual whose name is recorded in the PIE auditors register as an engagement partner of the auditor;

registered engagement quality control reviewer (註冊項目質素監控審視員), in relation to a registered PIE auditor, means an individual whose name is recorded in the PIE auditors register as an engagement quality control reviewer of the auditor;

registered quality control system responsible person (註冊質素監控制度負責人), in relation to a registered PIE auditor, means an individual whose name is recorded in the PIE auditors register as a quality control system responsible person of the auditor.

Division 2—Registered PIE Auditors

Subdivision 1—Prohibitions and Offences

20B. Prohibition on undertaking and carrying out PIE engagement

- (1) A person must not undertake or carry out any PIE engagement unless the person is a registered PIE auditor.
- (2) Subsection (1) does not apply to an overseas auditor.

20C. Prohibition on holding out as registered PIE auditor

A person must not hold the person out as a registered PIE auditor unless the person is registered as such an auditor under this Division.

20D. Prohibition on carrying out activity as engagement partner

A person must not carry out any activity as an engagement partner of a registered PIE auditor unless the person is a registered engagement partner of the auditor.

20E. Prohibition on carrying out activity as engagement quality control reviewer

A person must not carry out any activity as an engagement quality control reviewer of a registered PIE auditor unless the person is a registered engagement quality control reviewer of the auditor.

20F. Offences

A person who, without reasonable excuse, contravenes section 20B, 20C, 20D or 20E commits an offence and is liable—

- (a) on conviction on indictment—to a fine of \$1,000,000 and to imprisonment for 2 years and, for a continuing offence, to a further fine of \$20,000 for each day during which the offence continues; or
- (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months and, for a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

Subdivision 2—Registration

20G. Application

- (1) A practice unit may apply to the AFRC to be registered as a PIE auditor.
- (2) The application must—
 - (a) be made in the form and way specified by the AFRC; and
 - (b) be accompanied by the fee specified in Schedule 3B.
- (3) The application must contain—
 - (a) a list of all the applicant's responsible persons;
 - (b) if the applicant is a firm of certified public accountants (practising)—a list of all the applicant's partners; and
 - (c) if the applicant is a corporate practice—a list of all the applicant's directors.

(Amended 41 of 2021 s. 20)

20H. Decision on application

- (1) The AFRC may grant or refuse a registration application (PIE

auditor). (*Amended 41 of 2021 s. 21; L.N. 66 of 2022*)

- (2) The AFRC must not grant a registration application (PIE auditor) unless it is satisfied that— (*Amended 41 of 2021 s. 21; L.N. 66 of 2022*)
- (a) the applicant is a practice unit;
 - (b) the applicant meets the requirement specified in subsection (3);
 - (c) the quality control system responsible person of the applicant is—
 - (i) the chief executive officer of the applicant; or
 - (ii) a member of the managing board of partners of the applicant; and
 - (d) each responsible person of the applicant specified in the application is a fit and proper person to be a certified public accountant.
- (3) The requirement is—
- (a) if the applicant is a certified public accountant (practising)—the applicant is a fit and proper person to be a certified public accountant;
 - (b) if the applicant is a firm of certified public accountants (practising)—each partner of the applicant is a fit and proper person to be a certified public accountant; or
 - (c) if the applicant is a corporate practice—each director of the applicant is a fit and proper person to be a certified public accountant.

20I. Notification of decision

- (1) The AFRC must— (*Amended 41 of 2021 s. 22*)

- (a) inform the applicant for a registration application (PIE auditor) of its decision on the application by written notice; and (*Amended L.N. 66 of 2022*)
 - (b) issue a copy of the notice to each responsible person of the applicant listed in the application.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision. (*Amended 41 of 2021 s. 22*)

20J. Validity period of registration

(Amended L.N. 66 of 2022)

- (1) The registration of a practice unit as a PIE auditor—
- (a) takes effect—
 - (i) if the AFRC grants the unit's registration application (PIE auditor)—on the day specified in the notice from the AFRC under section 20I(1); or (*Amended L.N. 66 of 2022*)
 - (ii) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—on the day when the reversal of decision takes effect; and
 - (b) expires on 31 December of the year in which the registration takes effect. (*Amended 41 of 2021 s. 23*)
- (2) (*Repealed 41 of 2021 s. 23*)
- (3) The registration of a practice unit as a PIE auditor is renewable annually.

Subdivision 3—Renewal

20K. Application

- (1) A registered PIE auditor may apply to the AFRC for renewal

of its registration.

- (2) The application must be made no earlier than 3 months, and no later than 45 days, before the day on which the current registration expires.
- (3) The application must—
 - (a) be made in the form and way specified by the AFRC; and
 - (b) be accompanied by the fee specified in Schedule 3B.

(Amended 41 of 2021 s. 24)

20L. Decision on application

- (1) The AFRC may grant or refuse a renewal application (PIE auditor registration). *(Amended 41 of 2021 s. 25; L.N. 66 of 2022)*
- (2) The AFRC must not grant a renewal application (PIE auditor registration) unless it is satisfied that— *(Amended 41 of 2021 s. 25; L.N. 66 of 2022)*
 - (a) the applicant continues to meet all the requirements specified in section 20H(2); and
 - (b) the applicant meets the requirement specified in subsection (3).
- (3) The requirement is—
 - (a) if the applicant was a certified public accountant (practising) when the applicant was first registered—the applicant continues to be a certified public accountant (practising);
 - (b) if the applicant was a firm of certified public accountants (practising) when the applicant was first registered—the applicant continues to be a firm of certified public accountants (practising); or

- (c) if the applicant was a corporate practice when the applicant was first registered—the applicant continues to be a corporate practice.

20M. Notification of decision

- (1) The AFRC must— (*Amended 41 of 2021 s. 26*)
 - (a) inform the applicant for a renewal application (PIE auditor registration) of its decision on the application by written notice; and (*Amended L.N. 66 of 2022*)
 - (b) issue a copy of the notice to each registered responsible person of the applicant.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision. (*Amended 41 of 2021 s. 26*)

20N. Current registration remains in force until decision on renewal takes effect

- (1) This section applies if a renewal application (PIE auditor registration) has been made but the application is not finally determined before the expiry of the current registration. (*Amended L.N. 66 of 2022*)
- (2) Despite section 20J(1), the current registration remains in force until— (*Amended 41 of 2021 s. 27*)
 - (a) if the registration is renewed—the day on which the renewal takes effect under section 20O; or
 - (b) if the application is refused—the day on which the refusal takes effect under Part 3C.

20O. Validity period of renewed registration

(Amended L.N. 66 of 2022)

The renewal of registration of a PIE auditor—

- (a) takes effect—
 - (i) if the AFRC grants the auditor’s renewal application (PIE auditor registration)—on the day specified in the notice from the AFRC under section 20M(1); or (*Amended L.N. 66 of 2022*)
 - (ii) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—on the day when the reversal of decision takes effect; and (*Amended 41 of 2021 s. 28*)
- (b) expires on 31 December of the year in which the renewal takes effect.

Subdivision 4—Supplementary Registration and Renewal Provisions

20P. Applicant to provide information

- (1) An applicant for a registration application (PIE auditor) or renewal application (PIE auditor registration) must provide the AFRC with the information that the AFRC reasonably requires to enable it to consider the application. (*Amended L.N. 66 of 2022*)
- (2) In considering the application, the AFRC may have regard to any information in its possession (whether or not provided by the applicant).

(Amended 41 of 2021 s. 29)

20Q. Determination of fit and proper

- (1) In determining whether a person is a fit and proper person to be a certified public accountant, the AFRC must have regard to the following matters— (*Amended 41 of 2021 s. 30*)
 - (a) the person’s professional qualification, knowledge, skills and experience;

- (b) the person's reputation, character, reliability and integrity;
 - (c) the person's financial status and solvency;
 - (d) whether any disciplinary action has been taken against the person under this Ordinance or the PA Ordinance; and (*Amended 41 of 2021 s. 30*)
 - (e) whether the person has been convicted of any offence in Hong Kong or elsewhere.
- (2) To avoid doubt, this section only applies for the purposes of sections 20H and 20Y. (*Added 41 of 2021 s. 30*)

20R. Offences to provide false or misleading information

- (1) A person commits an offence if the person, in connection with a registration application (PIE auditor) or renewal application (PIE auditor registration)— (*Amended L.N. 66 of 2022*)
- (a) makes a statement that is false or misleading in a material particular; and
 - (b) knows that, or is reckless as to whether or not, the statement is false or misleading in a material particular.
- (2) A person commits an offence if the person, in connection with a registration application (PIE auditor) or renewal application (PIE auditor registration)— (*Amended L.N. 66 of 2022*)
- (a) omits a material particular from a statement with the result that the statement is rendered false or misleading; and
 - (b) knows that, or is reckless as to whether or not, the material particular is omitted from the statement.
- (3) A person who commits an offence under subsection (1) or (2) is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

Subdivision 5—Registration Conditions, Revocation and Suspension

20S. AFRC may impose or amend conditions

(Amended 41 of 2021 s. 31)

- (1) The AFRC may impose any condition in relation to the registration of a PIE auditor that the AFRC considers appropriate— *(Amended 41 of 2021 s. 31)*
 - (a) at the time when it grants the registration application (PIE auditor) or renewal application (PIE auditor registration); or *(Amended L.N. 66 of 2022)*
 - (b) at any other time when the registration is valid.
- (2) The AFRC may, at any time when the registration is valid, amend an existing condition by varying or revoking the condition. *(Amended 41 of 2021 s. 31)*
- (3) If the AFRC decides to impose or amend a condition in relation to the registration of a PIE auditor, the AFRC must— *(Amended 41 of 2021 s. 31)*
 - (a) inform the auditor of its decision by written notice; and
 - (b) issue a copy of the notice to each registered responsible person of the auditor.
- (4) The notice must include a statement of the reasons for the decision.

20T. Registration may be revoked or suspended on non-disciplinary grounds

- (1) The AFRC must revoke the registration of a PIE auditor— *(Amended 41 of 2021 s. 32)*
 - (a) where the auditor was a certified public accountant (practising) when the auditor was first registered—

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- (i) if the auditor dies; or
 - (ii) if the auditor ceases to be a certified public accountant (practising);
 - (b) where the auditor was a firm of certified public accountants (practising) when the auditor was first registered—
 - (i) if the auditor ceases to operate and the partnership is dissolved; or
 - (ii) if the auditor ceases to be a firm of certified public accountants (practising); and
 - (c) where the auditor was a corporate practice when the auditor was first registered—
 - (i) if the auditor has commenced to be wound up; or
 - (ii) if the auditor ceases to be a corporate practice.
 - (2) The AFRC may revoke or suspend the registration of a PIE auditor if— (*Amended 41 of 2021 s. 32*)
 - (a) the auditor requests the AFRC to do so; or (*Amended 41 of 2021 s. 32*)
 - (b) the AFRC is satisfied that the auditor has been registered— (*Amended 41 of 2021 s. 32*)
 - (i) by mistake; or
 - (ii) in consequence of any misleading, false or fraudulent statement, declaration or representation, whether orally or in writing.
 - (3) For the purposes of subsection (2), the AFRC may suspend the registration of a PIE auditor for a period of time, or until the occurrence of an event, that the AFRC considers appropriate. (*Amended 41 of 2021 s. 32*)

- (4) If the AFRC decides to revoke or suspend the registration of a PIE auditor under subsection (1) or (2), the AFRC must—
(Amended 41 of 2021 s. 32)
- (a) inform the auditor of its decision by written notice; and
 - (b) issue a copy of the notice to each registered responsible person of the auditor.
- (5) The notice must include a statement of the reasons for the decision.

Subdivision 6—Obligations of Registered PIE Auditors

20U. Registered PIE auditor must have registered responsible persons

- (1) A registered PIE auditor must ensure that it has, at all times—
- (a) at least one registered engagement partner;
 - (b) at least one registered engagement quality control reviewer; and
 - (c) at least one registered quality control system responsible person.
- (2) For the purposes of subsection (1), a person may be registered for one or more of the roles listed in that subsection.
- (3) Despite subsection (2), a registered PIE auditor must ensure that a person does not, in relation to a PIE engagement carried out by the auditor, act as both a registered engagement partner and a registered engagement quality control reviewer of the auditor.

20V. Registered PIE auditor must not authorize unregistered persons to carry out activity

A registered PIE auditor must not authorize a person, who is not a registered engagement partner, registered engagement quality

control reviewer or registered quality control system responsible person of the auditor, to carry out any activity for the auditor as such a partner, reviewer or person.

20W. Registered PIE auditor must provide sufficient resources etc.

- (1) A registered PIE auditor must ensure that a registered quality control system responsible person is provided with sufficient resources and support to carry out the duties under subsection (2).
- (2) A registered quality control system responsible person must use the person's best endeavours to ensure that the registered PIE auditor—
 - (a) has established and maintains a quality control system in relation to the PIE engagements carried out by the auditor;
 - (b) has established policies and procedures for monitoring the quality control system; and
 - (c) complies with the policies and procedures.

20X. Failure to meet certain requirements after registration

- (1) This section applies if a registered PIE auditor fails to meet a requirement specified in—
 - (a) section 20H(2)(b), (c) or (d); or
 - (b) section 20U(1).
- (2) The auditor must, within 7 days after the day on which the failure begins, inform the AFRC of the failure by written notice. (*Amended 41 of 2021 s. 33*)
- (3) The auditor must, within 14 days after the day on which the written notice is issued to the AFRC, take steps to ensure that the requirement is met. (*Amended 41 of 2021 s. 33*)

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- (4) If the auditor still fails to meet the requirement on the expiry of the 14-day period, the AFRC may— (*Amended 41 of 2021 s. 33*)
- (a) revoke the registration of the auditor; or
 - (b) suspend the registration of the auditor for a period of time, or until the occurrence of an event, that the AFRC considers appropriate. (*Amended 41 of 2021 s. 33*)
- (5) If the AFRC decides to revoke or suspend the registration of the auditor under subsection (4), the AFRC must— (*Amended 41 of 2021 s. 33*)
- (a) inform the auditor of its decision by written notice; and
 - (b) issue a copy of the notice to each registered responsible person of the auditor.
- (6) The notice must include a statement of the reasons for the decision.
- (7) A person who, without reasonable excuse, contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 5.

20Y. Additional registered responsible persons

- (1) This section applies if a registered PIE auditor proposes to add the name of a person to the list of registered responsible persons of the auditor.
- (2) The auditor must, by written notice in the specified form, inform the AFRC of the proposed addition. (*Amended 41 of 2021 s. 34*)
- (3) The name of the person may be added to the list of registered responsible persons of the auditor if the AFRC is satisfied that— (*Amended 41 of 2021 s. 34*)
- (a) the person is a fit and proper person to be a certified public accountant; and

- (b) in the case where the person is to be added to the list as a registered quality control system responsible person, the person also meets the requirement specified in section 20H(2)(c).
- (4) The AFRC must— (*Amended 41 of 2021 s. 34*)
 - (a) inform the auditor of its decision by written notice; and
 - (b) issue a copy of the notice to the person.
- (5) If the AFRC refuses to add the name of the person to the list of registered responsible persons of the auditor, the notice must include a statement of the reasons for the decision. (*Amended 41 of 2021 s. 34*)

20Z. Registered PIE auditor to notify changes in particulars

- (1) If there is a change in any of the specified particulars of a registered PIE auditor or any of its registered responsible persons, the auditor must, within 14 days after the day on which the change takes place, inform the AFRC of the change by written notice. (*Amended 41 of 2021 s. 35*)
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.
- (3) In this section—
specified particulars (指明詳情) means—
 - (a) full name;
 - (b) business address;
 - (c) telephone number; and
 - (d) electronic mail address.

20ZA. Registered PIE auditor to notify changes in registered responsible persons, partners and directors

- (1) A registered PIE auditor must, within 14 days after the day on which any of the following changes takes place, inform the AFRC of the change by written notice— (*Amended 41 of 2021 s. 36*)
 - (a) a registered responsible person of the auditor ceases to be a responsible person of the auditor; or
 - (b) a person becomes or ceases to be a partner or director of the auditor.
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

Division 3—Recognized PIE Auditors

Subdivision 1—Prohibitions and Offences

20ZB. Prohibition on undertaking and carrying out PIE engagement

- (1) An overseas auditor must not undertake any PIE engagement for an overseas entity unless—
 - (a) a recognition application (PIE auditor) has been made in relation to the auditor; and (*Amended L.N. 66 of 2022*)
 - (b) the application has been granted.
- (2) An overseas auditor must not carry out any PIE engagement for an overseas entity unless the auditor has been recognized as a PIE auditor of that entity under section 20ZI.
- (3) Subsections (1) and (2) do not prohibit a Mainland auditor recognized under section 20ZT from undertaking or carrying out a PIE engagement for a Mainland corporation.

20ZC. Prohibition on holding out as recognized PIE auditor

A person must not hold the person out as a recognized PIE auditor

unless the person is recognized as such an auditor under this Division.

20ZD. Offences

A person who, without reasonable excuse, contravenes section 20ZB or 20ZC commits an offence and is liable—

- (a) on conviction on indictment—to a fine of \$1,000,000 and to imprisonment for 2 years and, for a continuing offence, to a further fine of \$20,000 for each day during which the offence continues; or
- (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months and, for a continuing offence, to a further fine of \$2,000 for each day during which the offence continues.

Subdivision 2—Recognition

20ZE. Application

- (1) If an overseas entity proposes to appoint an overseas auditor to carry out a PIE engagement for it, the entity may apply to the AFRC to grant an approval-in-principle recognizing the auditor as a PIE auditor of the entity.
- (2) The application must—
 - (a) be made in the form and way specified by the AFRC; and
 - (b) be accompanied by the fee specified in Schedule 3B.

(Amended 41 of 2021 s. 105)

20ZF. Decision on application

- (1) The AFRC may grant or refuse a recognition application (PIE auditor). *(Amended L.N. 66 of 2022)*

- (2) The AFRC must not grant a recognition application (PIE auditor) unless it is satisfied that— (*Amended 41 of 2021 s. 105; L.N. 66 of 2022*)
- (a) the Securities and Futures Commission or the HKEC has, or both of them have, as the case requires—
 - (i) provided a statement of no objection to the applicant for appointing an overseas auditor to carry out a PIE engagement for the applicant; and
 - (ii) not withdrawn the statement;
 - (b) the overseas auditor specified in the application—
 - (i) is a member of an accountancy body that is a member of the International Federation of Accountants; and
 - (ii) is subject to the regulation of an overseas regulatory organization recognized by the AFRC; and
 - (c) the overseas auditor has adequate resources and possesses the capability to carry out a PIE engagement for the applicant.
- (3) The AFRC may recognize an overseas regulatory organization for the purposes of subsection (2)(b)(ii) if it is satisfied that— (*Amended 41 of 2021 s. 105*)
- (a) the organization performs a function that is similar to a function of the AFRC under this Ordinance; and
 - (b) the organization is composed of a majority of persons who are independent of the accountancy profession.
- (Amended 41 of 2021 s. 105)*

20ZG. Notification of decision

- (1) The AFRC must— (*Amended 41 of 2021 s. 105*)

- (a) inform the applicant for a recognition application (PIE auditor) of its decision on the application by written notice; and (*Amended L.N. 66 of 2022*)
 - (b) issue a copy of the notice to the overseas auditor specified in the application.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision. (*Amended 41 of 2021 s. 105*)

20ZH. Validity period of approval-in-principle

(Amended L.N. 66 of 2022)

- (1) If a recognition application (PIE auditor) made by an overseas entity is granted, an approval-in-principle is granted by the AFRC recognizing the overseas auditor specified in the application as a PIE auditor of the entity. (*Amended L.N. 66 of 2022*)
- (2) The approval-in-principle granted in relation to the recognition application (PIE auditor) is valid for a 6-month period beginning on— (*Amended L.N. 66 of 2022*)
 - (a) if the AFRC grants the application—the day specified in the notice from the AFRC under section 20ZG(1); or
 - (b) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—the day when the reversal of decision takes effect.

(Amended 41 of 2021 s. 105)

20ZI. Overseas auditors recognized as PIE auditors on undertaking PIE engagements

- (1) Subject to subsection (4), after the approval-in-principle is granted by the AFRC in relation to a recognition application (PIE auditor), the overseas entity may appoint the overseas

auditor to carry out a PIE engagement for it. *(Amended 41 of 2021 s. 105; L.N. 66 of 2022)*

- (2) If the overseas auditor undertakes the PIE engagement, the overseas entity must, within 14 days after the date of undertaking, inform the AFRC of that fact by written notice. *(Amended 41 of 2021 s. 105)*
- (3) Subject to subsection (4), the overseas auditor is recognized as a PIE auditor of the overseas entity when the auditor undertakes the PIE engagement.
- (4) If, by the end of the 6-month period during which the approval-in-principle granted in relation to the recognition application (PIE auditor) is valid— *(Amended L.N. 66 of 2022)*
 - (a) the overseas entity has not appointed the overseas auditor to carry out a PIE engagement for it; or
 - (b) the entity has appointed the auditor to carry out a PIE engagement for it but the auditor has not undertaken the engagement,

the entity must make a fresh recognition application (PIE auditor) in relation to the auditor if the entity subsequently proposes to so appoint the auditor. *(Amended L.N. 66 of 2022)*

20ZJ. Validity period of recognition

(Amended L.N. 66 of 2022)

- (1) The recognition of an overseas auditor as a PIE auditor of an overseas entity—
 - (a) takes effect when the auditor undertakes a PIE engagement for the entity within the 6-month period during which the relevant approval-in-principle is valid under section 20ZH(2); and

- (b) expires on 31 December of the year in which the recognition takes effect. *(Amended 41 of 2021 s. 37)*
- (2) *(Repealed 41 of 2021 s. 37)*
- (3) The recognition of an overseas auditor as a PIE auditor is renewable annually.

Subdivision 3—Renewal

20ZK. Application

- (1) An overseas entity that has appointed a recognized PIE auditor to carry out a PIE engagement for it may apply to the AFRC for renewal of the recognition.
- (2) The application must be made no earlier than 3 months, and no later than 45 days, before the day on which the current recognition expires.
- (3) The application must—
 - (a) be made in the form and way specified by the AFRC; and
 - (b) be accompanied by the fee specified in Schedule 3B.

(Amended 41 of 2021 s. 105)

20ZL. Decision on application

- (1) The AFRC may grant or refuse a renewal application (PIE auditor recognition).
- (2) The AFRC must not grant a renewal application (PIE auditor recognition) unless it is satisfied that all the requirements specified in section 20ZF(2) continue to be met in relation to the recognized PIE auditor.

(Amended 41 of 2021 s. 105; L.N. 66 of 2022)

20ZM. Notification of decision

- (1) The AFRC must— (*Amended 41 of 2021 s. 105*)
 - (a) inform the applicant for a renewal application (PIE auditor recognition) of its decision on the application by written notice; and (*Amended L.N. 66 of 2022*)
 - (b) issue a copy of the notice to the recognized PIE auditor specified in the application.
- (2) If the AFRC refuses the application, the notice must include a statement of the reasons for the decision. (*Amended 41 of 2021 s. 105*)

20ZN. Current recognition remains in force until decision on renewal takes effect

- (1) This section applies if a renewal application (PIE auditor recognition) has been made but the application is not finally determined before the expiry of the current recognition. (*Amended L.N. 66 of 2022*)
- (2) Despite section 20ZJ(1), the current recognition remains in force until— (*Amended 41 of 2021 s. 38*)
 - (a) if the recognition is renewed—the day on which the renewal takes effect under section 20ZO; or
 - (b) if the application is refused—the day on which the refusal takes effect under Part 3C.

20ZO. Validity period of renewed recognition

(Amended L.N. 66 of 2022)

The renewal of recognition of a PIE auditor of an overseas entity—

- (a) takes effect—
 - (i) if the AFRC grants the entity's renewal application (PIE auditor recognition) in relation to the auditor—on the day specified in the notice from

the AFRC under section 20ZM(1); or (*Amended L.N. 66 of 2022*)

- (ii) if the AFRC refuses the application but the decision is reversed by a review or appeal under Part 3C—on the day when the reversal of decision takes effect; and (*Amended 41 of 2021 s. 105*)
- (b) expires on 31 December of the year in which the renewal takes effect.

Subdivision 4—Supplementary Recognition and Renewal Provisions

20ZP. Applicant to provide information

- (1) An applicant for a recognition application (PIE auditor) or renewal application (PIE auditor recognition) must provide the AFRC with the information that the AFRC reasonably requires to enable it to consider the application. (*Amended L.N. 66 of 2022*)
- (2) In considering the application, the AFRC may have regard to any information in its possession (whether or not provided by the applicant).

(Amended 41 of 2021 s. 105)

20ZQ. Offences to provide false or misleading information

- (1) A person commits an offence if the person, in connection with a recognition application (PIE auditor) or renewal application (PIE auditor recognition)— (*Amended L.N. 66 of 2022*)
 - (a) makes a statement that is false or misleading in a material particular; and
 - (b) knows that, or is reckless as to whether or not, the statement is false or misleading in a material particular.

- (2) A person commits an offence if the person, in connection with a recognition application (PIE auditor) or renewal application (PIE auditor recognition)— *(Amended L.N. 66 of 2022)*
- (a) omits a material particular from a statement with the result that the statement is rendered false or misleading; and
 - (b) knows that, or is reckless as to whether or not, the material particular is omitted from the statement.
- (3) A person who commits an offence under subsection (1) or (2) is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

Subdivision 5—Recognition Conditions, Revocation and Suspension

20ZR. AFRC may impose or amend conditions

(Amended 41 of 2021 s. 39)

- (1) The AFRC may impose any condition in relation to the recognition of a PIE auditor that the AFRC considers appropriate— *(Amended 41 of 2021 s. 39)*
- (a) at the time when it grants the recognition application (PIE auditor) or renewal application (PIE auditor recognition); or *(Amended L.N. 66 of 2022)*
 - (b) at any other time when the recognition is valid.
- (2) The AFRC may, at any time when the recognition is valid, amend an existing condition by varying or revoking the condition. *(Amended 41 of 2021 s. 39)*
- (3) If the AFRC decides to impose or amend a condition in relation to the recognition of a PIE auditor, the AFRC must— *(Amended 41 of 2021 s. 39)*

- (a) inform the overseas entity, being the applicant for the recognition application (PIE auditor) or renewal application (PIE auditor recognition) in relation to the auditor, of its decision by written notice; and (*Amended L.N. 66 of 2022*)
 - (b) issue a copy of the notice to the auditor.
- (4) The notice must include a statement of the reasons for the decision.

20ZS. Recognition may be revoked or suspended on non-disciplinary grounds

- (1) The AFRC must revoke the recognition of an overseas auditor as a PIE auditor of an overseas entity if the appointment of the auditor for carrying out a PIE engagement for the entity is terminated.
- (2) The AFRC may revoke or suspend the recognition of an overseas auditor as a PIE auditor of an overseas entity if— (*Amended 41 of 2021 s. 105*)
 - (a) the entity requests the AFRC to do so;
 - (b) the AFRC is satisfied that the auditor has been recognized—
 - (i) by mistake; or
 - (ii) in consequence of any misleading, false or fraudulent statement, declaration or representation, whether orally or in writing; or
 - (c) the Securities and Futures Commission or the HKEC, as the case requires, has withdrawn the statement of no objection referred to in section 20ZF(2)(a).
- (3) For the purposes of subsection (2), the AFRC may suspend the recognition of a PIE auditor for a period of time, or

until the occurrence of an event, that the AFRC considers appropriate.

- (4) If the AFRC decides to revoke or suspend the recognition of an overseas auditor as a PIE auditor of an overseas entity under subsection (1) or (2), the AFRC must— (*Amended 41 of 2021 s. 105*)
 - (a) inform the entity of its decision by written notice; and
 - (b) issue a copy of the notice to the auditor.
- (5) The notice must include a statement of the reasons for the decision.

(Amended 41 of 2021 s. 105)

Subdivision 6—Miscellaneous

20ZT. Recognition of Mainland auditors endorsed in accordance with mutual recognition agreement

- (1) The AFRC must, without a recognition application (PIE auditor) having been made in relation to a Mainland auditor, recognize the auditor as a PIE auditor if all the conditions specified in subsection (2) are satisfied. (*Amended 41 of 2021 s. 105; L.N. 66 of 2022*)
- (2) The conditions are—
 - (a) a mutual recognition agreement is in force;
 - (b) the auditor has been endorsed in accordance with the agreement as being qualified to act as an auditor of the Mainland corporations listed in Hong Kong; and
 - (c) the endorsement has not been withdrawn.
- (3) A Mainland auditor recognized under subsection (1)—
 - (a) may only carry out PIE engagements for the Mainland corporations listed in Hong Kong; and

- (b) must carry them out in accordance with—
- (i) the China Accounting Standards for Business Enterprises; or
 - (ii) the Mainland Auditing Standards.
- (4) Subdivisions 2, 3, 4 and 5, and sections 20ZU and 20ZV, do not apply to a Mainland auditor recognized under subsection (1).
- (5) The AFRC must revoke the recognition of a Mainland auditor under subsection (1) if any of the conditions specified in subsection (2) is no longer satisfied in relation to the auditor. *(Amended 41 of 2021 s. 105)*
- (6) If the AFRC decides to revoke the recognition of a Mainland auditor under subsection (5), the AFRC must inform the auditor of its decision by written notice. *(Amended 41 of 2021 s. 105)*
- (7) The notice must include a statement of the reasons for the decision.
- (8) In this section—

mutual recognition agreement (相互認可協議) means an agreement between the Mainland of China and Hong Kong for mutual recognition of qualified auditors from either jurisdiction (***home jurisdiction***) to act as auditors of corporations incorporated in the home jurisdiction and listed in the other jurisdiction.

20ZU. Overseas entity to notify termination of appointment of recognized PIE auditors

- (1) This section applies if an overseas entity has appointed a recognized PIE auditor to carry out a PIE engagement for it.

- (2) If the appointment is terminated, the entity must, within 14 days after the date of termination, inform the AFRC of the termination by written notice. (*Amended 41 of 2021 s. 105*)
- (3) A person who, without reasonable excuse, contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 5.

20ZV. Failure to meet certain requirements after recognition

- (1) This section applies if a recognized PIE auditor fails to meet a requirement specified in section 20ZF(2)(b) or (c).
- (2) The auditor must, within 7 days after the day on which the failure begins, inform the AFRC of the failure by written notice. (*Amended 41 of 2021 s. 105*)
- (3) The auditor must, within 14 days after the day on which the written notice is issued to the AFRC, take steps to ensure that the requirement is met. (*Amended 41 of 2021 s. 105*)
- (4) If the auditor still fails to meet the requirement on the expiry of the 14-day period, the AFRC may— (*Amended 41 of 2021 s. 105*)
 - (a) revoke the recognition of the auditor; or
 - (b) suspend the recognition of the auditor for a period of time, or until the occurrence of an event, that the AFRC considers appropriate. (*Amended 41 of 2021 s. 105*)
- (5) If the AFRC decides to revoke or suspend the recognition of the auditor under subsection (4), the AFRC must— (*Amended 41 of 2021 s. 105*)
 - (a) inform the auditor of its decision by written notice; and
 - (b) issue a copy of the notice to the overseas entity concerned.
- (6) The notice must include a statement of the reasons for the decision.

- (7) A person who, without reasonable excuse, contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 5.

20ZW. Recognized PIE auditor to notify changes in particulars

- (1) If there is a change in any of the specified particulars of a recognized PIE auditor, the auditor must, within 14 days after the day on which the change takes place, inform the AFRC of the change by written notice. (*Amended 41 of 2021 s. 105*)
- (2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

- (3) In this section—

specified particulars (指明詳情) means—

- (a) full name;
- (b) business address;
- (c) telephone number; and
- (d) electronic mail address.

Division 4—Register of PIE Auditors

20ZX. AFRC to establish and maintain register of PIE auditors

(Amended 41 of 2021 s. 40)

- (1) The AFRC must establish and maintain a register of PIE auditors in a form the AFRC considers appropriate.
- (2) The register must contain, in relation to each registered PIE auditor—
- (a) the full name of—
 - (i) the auditor; and
 - (ii) each registered responsible person of the auditor;

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- (b) the business address of the auditor;
 - (c) the conditions imposed by the AFRC in relation to the registration of the auditor (including any condition relating to the registered responsible persons of the auditor), if any;
 - (d) the day on which the registration of the auditor expires;
 - (e) a record of—
 - (i) the sanctions imposed or actions taken under Division 2 or 3 of Part 3B (except a private reprimand); and
 - (ii) the orders made under section 35 of the PA Ordinance as in force before the 2021 Ordinance commencement date,
in relation to the auditor, or any registered responsible person of the auditor, within the last 5 years, if any; and
 - (f) any other particulars the AFRC considers appropriate.
- (3) The register must contain, in relation to each recognized PIE auditor—
- (a) the full name of the auditor;
 - (b) the business address of the auditor;
 - (c) the conditions imposed by the AFRC in relation to the recognition of the auditor, if any;
 - (d) the day on which the recognition of the auditor expires, if applicable;
 - (e) a record of the sanctions imposed or actions taken under Division 2 or 3 of Part 3B (except a private reprimand) in relation to the auditor within the last 5 years, if any; and
 - (f) any other particulars the AFRC considers appropriate.

(4) *(Repealed 41 of 2021 s. 40)*

(Amended 41 of 2021 s. 40)

20ZY. Inspection of PIE auditors register etc.

- (1) A person may, at all reasonable times—
 - (a) if the PIE auditors register is kept in a documentary form—inspect the register free of charge; or
 - (b) if the register is kept otherwise than in a documentary form—inspect a reproduction of any information recorded in the register in a legible form free of charge.
- (2) A person may, at all reasonable times and on payment of the fee specified in Schedule 3B, obtain—
 - (a) a copy of an entry in, or an extract of, the PIE auditors register; or
 - (b) a copy of the entry or extract certified by an authorized officer of the AFRC as a true copy of the entry or extract.
- (3) A right under subsection (1) or (2) is only exercisable for enabling a person—
 - (a) to ascertain whether the person is dealing with, in matters of or connected with a PIE engagement—
 - (i) a registered PIE auditor;
 - (ii) a registered responsible person of a registered PIE auditor; or
 - (iii) a recognized PIE auditor; or
 - (b) to ascertain the particulars of—
 - (i) a registered PIE auditor;
 - (ii) a registered responsible person of a registered PIE auditor; or

- (iii) a recognized PIE auditor.
- (4) In any legal proceedings—
 - (a) a document purporting—
 - (i) to be a copy of an entry in, or an extract of, the PIE auditors register; and
 - (ii) to be certified by an authorized officer of the AFRC as a true copy of the entry or extract, is admissible in evidence on its production without further proof; and
 - (b) unless there is evidence to the contrary, on being admitted in evidence under paragraph (a), the document—
 - (i) is presumed to be certified by an authorized officer of the AFRC;
 - (ii) is presumed to be a true copy of the entry or extract; and
 - (iii) is proof of its contents.
- (5) The AFRC must, as far as practicable, make the PIE auditors register available to any person for inspection free of charge on the Internet.

(Amended 41 of 2021 s. 41)

Part 3AA

Inspection and Investigation in relation to Practice Units etc.

(Part 3AA added 41 of 2021 s. 42)

Division 1—Preliminary

20ZZ. Interpretation

In this Part—

inspection report (查察報告) means a report prepared by a CPA inspector under section 20ZZD(1);

investigation report (調查報告) means a report prepared by a CPA investigator under section 20ZZN(1) or (2).

Division 2—Inspection in relation to Practice Units

Subdivision 1—Conduct of Inspection

20ZZA. AFRC may appoint CPA inspectors

- (1) The AFRC may, in writing, appoint—
 - (a) an employee of the AFRC; or
 - (b) with the consent of the Financial Secretary, any other person,as a CPA inspector for the purposes of this Ordinance.
- (2) A CPA inspector must be—
 - (a) a certified public accountant; or
 - (b) a member of an accountancy body that is a member of the International Federation of Accountants.

- (3) The AFRC must provide a CPA inspector with a copy of the appointment.

20ZZB. AFRC may direct inspection to be carried out for determining observance etc.

- (1) The AFRC may—
 - (a) specify a PAO professional standard in relation to which an inspection under this Division is to be carried out;
 - (b) subject to subsection (2), direct a CPA inspector to carry out an inspection in relation to a practice unit for the purpose of determining whether the unit has observed, maintained or applied the PAO professional standard; and
 - (c) determine the practices and procedures to be followed for an inspection under this Division.
- (2) A direction under subsection (1)(b) must not require an inspection to be carried out in relation to the PIE engagements completed by a PIE auditor on or after the 2019 Ordinance commencement date.
- (3) The AFRC must provide the CPA inspector with a copy of its direction.

20ZZC. Powers of CPA inspector

- (1) For the purposes of an inspection under this Division, a CPA inspector may require a person specified in subsection (2)—
 - (a) to produce to the CPA inspector, or give the CPA inspector access to, within the time and at the place specified in the requirement, any specified document in the person's possession, or under the person's control, that the CPA inspector has reasonable cause to believe to be relevant to the inspection (*required document*);

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- (b) to give to the CPA inspector such explanation or further particulars in respect of a required document as the CPA inspector specifies; and
- (c) to give to the CPA inspector all assistance in connection with the inspection that the person is reasonably able to give.
- (2) The person specified for subsection (1) is any of the following persons whom the CPA inspector has reasonable cause to believe to be in possession of, or in control of, a required document—
- (a) if the practice unit to which the inspection relates (*unit concerned*) is a certified public accountant (practising) who practises accountancy on the accountant's own account—that accountant;
- (b) if the unit concerned is a firm of certified public accountants (practising) or a corporate practice—a certified public accountant working in the unit;
- (c) a person employed by, or whose services are engaged by, the unit concerned.
- (3) A CPA inspector may—
- (a) inspect, examine or make copies of a required document; or
- (b) take any abstract of, or extract from, a required document.
- (4) A CPA inspector exercising a power under this section must, if so requested by a person affected by the exercise, produce for inspection by the person a copy of the appointment provided to the CPA inspector under section 20ZZA(3).
- (5) Nothing in this section is to be taken to compel the production by a person of a record or document containing

privileged communication by or to a legal practitioner in that capacity.

(6) In this section—

specified document (指明文件) means any record or document specified by a CPA inspector, or any record or document that is of a class or description specified by a CPA inspector, for the purposes of subsection (1).

Subdivision 2—Inspection Report

20ZZD. Report for inspection in relation to practice units

- (1) A CPA inspector who carries out an inspection under this Division must prepare and submit to the AFRC a written report in relation to the inspection—
 - (a) at the conclusion of the inspection; and
 - (b) if required by the AFRC—at any other stage of the inspection.
- (2) Before submitting an inspection report to the AFRC, the CPA inspector must—
 - (a) send a dated draft of the report to—
 - (i) the practice unit concerned; and
 - (ii) any other person named in the draft; and
 - (b) give every person to whom the draft is sent under paragraph (a) a reasonable opportunity of being heard.
- (3) After submitting an inspection report to the AFRC, the CPA inspector must send a copy of the report to—
 - (a) the practice unit concerned; and
 - (b) any other person named in the report.

- (4) When sending a draft or copy of the inspection report under this section, the CPA inspector must send it by registered post—
- (a) for the practice unit concerned—to the registered office of the unit; or
 - (b) for any other person named in the draft or report—to the last known address of the person.

20ZZE. AFRC’s power to take follow-up action after inspection in relation to practice units

- (1) The AFRC may, having regard to an inspection report in relation to a practice unit—
- (a) decide no follow-up action is required;
 - (b) require the unit to take a measure or corrective action regarding compliance with a PAO professional standard;
 - (c) direct a CPA inspector to carry out a further inspection under this Division in relation to the unit within a period specified by the AFRC;
 - (d) initiate an investigation under section 20ZZH; or
 - (e) impose a sanction on, or take an action in relation to, the unit or any certified public accountant to which the inspection relates under section 37CA or 37I(1A).
- (2) A period specified under subsection (1)(c) must not commence earlier than 6 months after the date of the direction concerned.

20ZZF. Change in composition of practice unit

- (1) This section applies to—
- (a) any change in the composition of a practice unit whenever occurring; and

- (b) any inspection under this Division whenever conducted.
- (2) If a change in the composition of a practice unit occurs, a reference in this Division to a practice unit includes the unit after the change.
- (3) A power under this Division is exercisable in relation to a practice unit despite any change in the composition of the unit.
- (4) A change in the composition of a practice unit does not affect—
 - (a) any right, obligation or liability acquired or incurred by, or accrued to, the unit under this Division before the change; or
 - (b) any inspection or further inspection in relation to the unit under this Division.
- (5) Any inspection or further inspection under this Division may be carried out and continued in relation to a practice unit despite any change or further changes in the composition of the unit.
- (6) In this section, a reference to a change in the composition of a practice unit is a reference to—
 - (a) a change in the name of the unit, whether or not following or in consequence of an event described in paragraph (b), (c) or (d);
 - (b) if the unit is a certified public accountant (practising) who practises accountancy on the accountant’s own account—the admission by the accountant of any partner to the accountant’s practice;
 - (c) if the unit is a firm of certified public accountants (practising)—a change in the persons who comprise the partners of the firm, but only if at least one of the

partners of the firm before the change is a partner of the firm after the change; or

- (d) if the unit is a corporate practice—a change in the persons who comprise the directors of the practice.

Division 3—Investigation in relation to Professional Persons

Subdivision 1—Conduct of Investigation

20ZZG. AFRC may appoint CPA investigators

- (1) The AFRC may, in writing, appoint—
- (a) an employee of the AFRC; or
 - (b) with the consent of the Financial Secretary, any other person,
- as a CPA investigator for the purposes of this Ordinance.
- (2) The AFRC must provide a CPA investigator with a copy of the appointment.

20ZZH. AFRC may direct investigation to be carried out in relation to professional persons

- (1) This section applies if the AFRC, for considering whether to impose a sanction under section 37CA, has reason to inquire into whether a professional person, or a person while being a professional person, has committed a professional irregularity within the meaning of section 3B.
- (2) The AFRC may direct a CPA investigator to carry out an investigation into the possible professional irregularity.
- (3) A direction under subsection (2) must not require an investigation to be carried out if—

- (a) the person to be investigated is or was a PIE auditor, a non-PIE auditor or a registered responsible person of a registered PIE auditor;
 - (b) the investigation relates to a PIE engagement or non-PIE engagement completed by the auditor; and
 - (c) the professional irregularity to be investigated is a practice irregularity within the meaning of section 4.
- (4) The AFRC must provide the CPA investigator with a copy of its direction.

20ZZI. AFRC may direct investigation in relation to professional persons to be suspended

- (1) The AFRC may direct a CPA investigator to suspend an investigation under this Division for a period of time the AFRC considers appropriate.
- (2) The AFRC must provide the CPA investigator with a copy of its direction.

20ZZJ. Powers of CPA investigator

- (1) For the purposes of an investigation under this Division, a CPA investigator may require a person specified in subsection (2)—
 - (a) to produce to the CPA investigator, or give the CPA investigator access to, within the time and at the place specified in the requirement, any specified document in the person's possession, or under the person's control, that the CPA investigator has reasonable cause to believe to be relevant to the investigation (*required document*);
 - (b) to give to the CPA investigator such explanation or further particulars in respect of a required document as the CPA investigator specifies; and

- (c) to give to the CPA investigator all assistance in connection with the investigation that the person is reasonably able to give.
- (2) The person specified for subsection (1) is any of the following persons whom the CPA investigator has reasonable cause to believe to be in possession of, or in control of, a required document—
 - (a) a professional person;
 - (b) a person who is—
 - (i) an employee or former employee of a professional person; and
 - (ii) a student registered with the HKICPA;
 - (c) if the investigation relates to a practice unit—an employee or former employee of the unit;
 - (d) if the investigation relates to a certified public accountant—the employer or former employer (if any) of the accountant.
- (3) A CPA investigator may—
 - (a) inspect, examine or make copies of a required document; or
 - (b) take any abstract of, or extract from, a required document.
- (4) A CPA investigator exercising a power under this section must, if so requested by a person affected by the exercise, produce for inspection by the person a copy of the appointment provided to the CPA investigator under section 20ZZG(2).
- (5) Nothing in this section is to be taken to compel the production by a person of a record or document containing

privileged communication by or to a legal practitioner in that capacity.

(6) In this section—

specified document (指明文件) means any record or document specified by a CPA investigator, or any record or document that is of a class or description specified by a CPA investigator, for the purposes of subsection (1).

20ZZK. AFRC to inform certain bodies of investigation in relation to professional persons

(1) This section applies if—

- (a) the AFRC directs a CPA investigator to carry out an investigation under section 20ZZH; and
- (b) the investigation relates to the provision of services to any of the persons specified in subsection (3).

(2) The AFRC must give a written notice to the specified enforcement agency referred to in subsection (4), informing it that the investigation is to be carried out.

(3) The persons specified for subsection (1)(b) are—

- (a) a person that—
 - (i) is an authorized institution; or
 - (ii) to the AFRC's knowledge—
 - (A) is a controller of an authorized institution;
 - (B) has as its controller an authorized institution; or
 - (C) has a controller that is also a controller of an authorized institution;
- (b) a person that is an insurer authorized under the Insurance Ordinance (Cap. 41);

- (c) a person that is—
 - (i) a licensed person within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571); or
 - (ii) a collective investment scheme authorized under section 104 of that Ordinance; and
 - (d) a person that is an approved trustee within the meaning of section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485).
- (4) The notice is to be given to—
- (a) in the case of a person referred to in subsection (3)(a)—the Monetary Authority;
 - (b) in the case of a person referred to in subsection (3)(b)—the Insurance Authority;
 - (c) in the case of a person referred to in subsection (3)(c)—the Securities and Futures Commission;
 - (d) in the case of a person referred to in subsection (3)(d)—the Mandatory Provident Fund Schemes Authority.

20ZZL.CPA investigator to consult before imposing requirements under section 20ZZJ

A CPA investigator must not impose a requirement on a person under section 20ZZJ unless, before doing so, the CPA investigator has consulted—

- (a) if the person—
 - (i) is an authorized institution; or
 - (ii) to the AFRC’s knowledge—
 - (A) is a controller of an authorized institution;
 - (B) has as its controller an authorized institution;
- or

- (C) has a controller that is also a controller of an authorized institution,
- the Monetary Authority;
- (b) if the person is an insurer authorized under the Insurance Ordinance (Cap. 41)—the Insurance Authority;
- (c) if the person is—
- (i) a licensed person within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571); or
- (ii) a responsible person of a collective investment scheme authorized under section 104 of that Ordinance,
- the Securities and Futures Commission; and
- (d) if the person is an approved trustee within the meaning of section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485)—the Mandatory Provident Fund Schemes Authority.

20ZZM. Use of incriminating evidence in proceedings after investigation in relation to professional persons

- (1) If a CPA investigator requires a person to give an explanation or further particulars under section 20ZZJ, the CPA investigator must ensure that the person has first been informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of the requirement and of the explanation or particulars.
- (2) Despite anything in this Ordinance, if—
- (a) a CPA investigator requires a person to give an explanation or further particulars under section 20ZZJ; and

- (b) the explanation or particulars might tend to incriminate the person and the person claims this before giving the explanation or particulars,

the requirement, as well as the explanation or particulars, are not admissible in evidence against the person in criminal proceedings in a court of law other than those in which the person is charged with an offence under Part V of the Crimes Ordinance (Cap. 200) in relation to the explanation or particulars.

Subdivision 2—Findings of Investigation

20ZZN. Report for investigation in relation to professional persons

- (1) As soon as practicable after the completion of an investigation under this Division, the CPA investigator must prepare and submit to the AFRC a written report in relation to the investigation.
- (2) The CPA investigator—
 - (a) may prepare an interim report in relation to the investigation if the CPA investigator considers it appropriate to do so; and
 - (b) if required by the AFRC—must prepare an interim report in relation to the investigation.
- (3) Before submitting an investigation report to the AFRC, the CPA investigator must—
 - (a) send a dated draft of the report to—
 - (i) the person investigated; and
 - (ii) any other person named in the draft; and
 - (b) give every person to whom the draft is sent under paragraph (a) a reasonable opportunity of being heard.
- (4) The AFRC may—

- (a) adopt the investigation report submitted by the CPA investigator; and
 - (b) publish or otherwise disclose the report or any part of it.
- (5) In deciding whether to publish or otherwise disclose an investigation report or any part of it, the AFRC must take into account—
- (a) whether the publication or disclosure may adversely affect any of the following proceedings that have been, or are likely to be, instituted—
 - (i) any proceedings under Part 3C;
 - (ii) any criminal proceedings before a court or magistrate;
 - (iii) any proceedings before a tribunal established by or under an enactment;
 - (iv) any proceedings under section 41 of the PA Ordinance;
 - (v) any proceedings before a Disciplinary Committee constituted under section 33(3) of the PA Ordinance as in force immediately before the 2021 Ordinance commencement date;
 - (b) whether the publication or disclosure may adversely affect any person named in the report; and
 - (c) whether the publication or disclosure would be in the interest of the investing public or in the public interest.
- (6) A document purporting—
- (a) to be a copy of an investigation report adopted under subsection (4); and
 - (b) to be certified by the chairperson of the AFRC as a true copy of such a report,

is admissible on its production, without further proof, as evidence of the facts stated in the report in any of the proceedings specified in subsection (7).

- (7) The proceedings are—
- (a) proceedings under Part 3C;
 - (b) civil proceedings before a court;
 - (c) proceedings before a tribunal established by or under an enactment;
 - (d) proceedings under section 41 of the PA Ordinance; or
 - (e) proceedings before a Disciplinary Committee constituted under section 33(3) of the PA Ordinance as in force immediately before the 2021 Ordinance commencement date.

20ZZO. Action by AFRC in relation to investigation under Division 3 of Part 3AA

- (1) This section applies if an investigation report is submitted to the AFRC under section 20ZZN.
- (2) The AFRC may, in relation to the investigation—
 - (a) close the case without further action; or
 - (b) impose a sanction on, or take an action in relation to, the person investigated under section 37CA or 37I(1A).
- (3) In exercising a power under subsection (2), the AFRC must have regard to the investigation report.
- (4) As soon as practicable after deciding to exercise a power under subsection (2), the AFRC must issue a written notice of the decision to the person investigated, unless the AFRC is satisfied that the notification may prejudice an action by the AFRC, or a specified body, relating to the investigation.

Part 3A

Inspection and Investigation in relation to PIE Auditors, Non-PIE Auditors, etc.

(Replaced 3 of 2019 ss. 23 & 24)

Division 1—Preliminary

(Replaced 3 of 2019 s. 24)

21. Interpretation

In this Part—

inspection report (查察報告) means a report prepared by an FR inspector under section 21G(1); *(Amended L.N. 66 of 2022)*

investigation report (調查報告) means a report prepared by an FR investigator under section 31A(1) or (2). *(Amended L.N. 66 of 2022)*

(Replaced 3 of 2019 s. 25)

Division 2—Inspection in relation to PIE Auditors

(Division 2 added 3 of 2019 s. 26)

Subdivision 1—Conduct of Inspection

21A. AFRC may appoint FR inspectors

(Amended 41 of 2021 s. 43; L.N. 66 of 2022)

(1) The AFRC may, in writing, appoint— *(Amended 41 of 2021 s. 43)*

(a) an employee of the AFRC; or

- (b) with the consent of the Financial Secretary, any other person,
as an FR inspector for the purposes of this Ordinance.
- (2) An FR inspector must be— (*Amended L.N. 66 of 2022*)
 - (a) a certified public accountant; or
 - (b) a member of an accountancy body that is a member of the International Federation of Accountants.
- (3) The AFRC must provide an FR inspector with a copy of the appointment.

(Amended 41 of 2021 s. 43; L.N. 66 of 2022)

21B. AFRC may direct inspection to be carried out for ascertaining compliance

(Amended 41 of 2021 s. 44)

- (1) The AFRC may direct an FR inspector to carry out an inspection in relation to the PIE engagements completed by a PIE auditor on or after the 2019 Ordinance commencement date for the purpose of ascertaining whether the auditor has complied with, or is likely to be able to comply with— (*Amended 41 of 2021 s. 44; L.N. 66 of 2022*)
 - (a) a provision of this Ordinance; or
 - (b) a professional standard.
- (2) The AFRC may, in relation to an inspection under this Division— (*Amended 41 of 2021 s. 44*)
 - (a) specify a professional standard the compliance with which is to be ascertained in the inspection; and
 - (b) determine the practices and procedures to be followed for the inspection.
- (3) The AFRC must provide the FR inspector with a copy of its direction. (*Amended 41 of 2021 s. 44; L.N. 66 of 2022*)

21C. Powers of FR inspector

(Amended L.N. 66 of 2022)

- (1) For the purposes of an inspection under this Division, an FR inspector may, at any reasonable time, exercise any of the following powers in relation to a PIE auditor— *(Amended L.N. 66 of 2022)*
- (a) enter any business premises of the auditor;
 - (b) inspect, and make copies or otherwise record details of, any record or document related to the PIE engagements completed by the auditor on or after the 2019 Ordinance commencement date;
 - (c) make inquiries of the auditor or a person specified in subsection (4)—
 - (i) concerning a record or document referred to in paragraph (b); or
 - (ii) concerning an activity that was carried out in the course of, or that may affect, a PIE engagement.
- (2) In exercising a power under subsection (1)(b) or (c), the FR inspector may require the auditor or a person specified in subsection (4)— *(Amended L.N. 66 of 2022)*
- (a) to give the FR inspector access to a record or document referred to in subsection (1)(b);
 - (b) to produce to the FR inspector, within the time and at the place specified in the requirement, a record or document referred to in subsection (1)(b); or
 - (c) to answer any question—
 - (i) concerning a record or document referred to in subsection (1)(b); or

- (ii) concerning an activity that was carried out in the course of, or that may affect, a PIE engagement.
(Amended L.N. 66 of 2022)
- (3) The power under subsection (1)(c) or (2) is not exercisable in relation to a person specified in subsection (4) unless the FR inspector has reasonable cause to believe that the information, record or document being sought cannot be obtained by exercising the power in relation to the auditor. *(Amended L.N. 66 of 2022)*
- (4) The person specified for subsection (1)(c) or (2) is a person whom the FR inspector has reasonable cause to believe—
(Amended L.N. 66 of 2022)
 - (a) to have the information being sought for the inspection;
or
 - (b) to be in possession of any record or document being sought for the inspection.

21D. FR inspector may require answer to be verified by statutory declaration

(Amended L.N. 66 of 2022)

- (1) If a person gives an answer in compliance with a requirement imposed under section 21C, the FR inspector may, by written notice, require the person to verify the answer by a statutory declaration within the time specified in the notice.
- (2) If a person does not give an answer in compliance with a requirement imposed under section 21C for the reason that the information concerned is not within the person's knowledge or possession, the FR inspector may, by written notice, require the person to verify that fact and reason by a statutory declaration within the time specified in the notice.
- (3) A statutory declaration under subsection (1) or (2) may be made before the FR inspector and, for that purpose, the FR

inspector is to have full power to administer the statutory declaration.

(Amended L.N. 66 of 2022)

21E. AFRC may require information for determining frequency of inspection etc.

(Amended 41 of 2021 s. 45)

- (1) The AFRC may, by written notice, require a PIE auditor to provide any information specified in subsection (2) for—
(Amended 41 of 2021 s. 45)
 - (a) determining the frequency at which an inspection under this Division is to be carried out in relation to the auditor;
 - (b) specifying the professional standard the compliance with which is to be ascertained in an inspection under this Division; or
 - (c) determining the practices and procedures to be followed for an inspection under this Division.
- (2) The information is—
 - (a) the number of PIE engagements that the PIE auditor has undertaken or carried out within a period specified by the AFRC;
 - (b) the full name of the PIEs that have appointed the auditor to undertake PIE engagements; or
 - (c) any other information relating to the auditor required by the AFRC.
- (3) The PIE auditor must provide the required information within the time and in the form specified in the notice.

(Amended 41 of 2021 s. 45)

21F. Offences relating to sections 21C and 21D

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a specified requirement.
- (2) A person commits an offence if the person, with intent to defraud, fails to comply with a specified requirement.
- (3) A person commits an offence if—
 - (a) in purported compliance with a specified requirement, the person produces a record or document, or gives an answer, that is false or misleading in a material particular; and
 - (b) the person knows that, or is reckless as to whether or not, the record, document or answer is false or misleading in a material particular.
- (4) A person commits an offence if, in purported compliance with a specified requirement, the person, with intent to defraud, produces a record or document, or gives an answer, that is false or misleading in a material particular.
- (5) A person commits an offence if the person, with intent to defraud—
 - (a) causes or allows another person to fail to comply with a specified requirement; or
 - (b) causes or allows another person, in purported compliance with a specified requirement, to produce a record or document, or give an answer, that is false or misleading in a material particular.
- (6) Despite anything in this Ordinance, no criminal proceedings may be instituted against a person under subsection (1), (2), (3), (4) or (5) in relation to a particular conduct if—

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- (a) proceedings have previously been instituted against the person under section 32(2)(b) in relation to the same conduct; and
- (b) those proceedings remain pending, or because of the previous institution of those proceedings, no proceedings may again be lawfully instituted against the person under section 32(2)(b) in relation to the same conduct.
- (7) A person who commits an offence under subsection (1) is liable—
- (a) on conviction on indictment—to a fine of \$200,000 and to imprisonment for 1 year; or
- (b) on summary conviction—to a fine at level 5 and to imprisonment for 6 months.
- (8) A person who commits an offence under subsection (3) is liable—
- (a) on conviction on indictment—to a fine of \$1,000,000 and to imprisonment for 2 years; or
- (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.
- (9) A person who commits an offence under subsection (2), (4) or (5) is liable—
- (a) on conviction on indictment—to a fine of \$1,000,000 and to imprisonment for 7 years; or
- (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.
- (10) In this section—
- specified requirement*** (指明要求) means a requirement imposed under—
- (a) section 21C(2); or
- (b) section 21D(1) or (2).

Subdivision 2—Inspection Report

21G. Report for inspection in relation to PIE engagements

(Amended 41 of 2021 s. 46)

- (1) An FR inspector who carries out an inspection under this Division must prepare and submit to the AFRC a written report in relation to the inspection— *(Amended 41 of 2021 s. 46; L.N. 66 of 2022)*
 - (a) at the conclusion of the inspection; and
 - (b) if required by the AFRC, at any other stage of the inspection. *(Amended 41 of 2021 s. 46)*
- (2) Before submitting an inspection report to the AFRC, the FR inspector must— *(Amended 41 of 2021 s. 46; L.N. 66 of 2022)*
 - (a) send a dated draft of the report to—
 - (i) the PIE auditor concerned; and
 - (ii) any other person named in the draft; and
 - (b) give the auditor and the person a reasonable opportunity of being heard.
- (3) After submitting an inspection report to the AFRC, the FR inspector must send a copy of the report to— *(Amended 41 of 2021 s. 46; L.N. 66 of 2022)*
 - (a) the PIE auditor concerned; and
 - (b) any other person named in the report.
- (4) When sending a draft or copy of the inspection report under this section, the FR inspector must send it by registered post to— *(Amended L.N. 66 of 2022)*
 - (a) for the PIE auditor concerned—the registered office of the auditor; or

- (b) for any other person named in the draft or report—the last known address of the person.

21H. AFRC's power to take follow-up action after inspection in relation to PIE engagements

(Amended 41 of 2021 s. 47)

The AFRC may, having regard to an inspection report in relation to a PIE auditor— *(Amended 41 of 2021 s. 47)*

- (a) decide no follow-up action is required;
- (b) require the auditor or, if a registered responsible person of the auditor is named in the report, the person to take a measure or corrective action regarding compliance with—
 - (i) a provision of this Ordinance; or
 - (ii) a professional standard;
- (c) direct an FR inspector to carry out a further inspection under this Division in relation to the auditor within a specified period which must not commence earlier than 6 months after the date of the direction; *(Amended 41 of 2021 s. 47; L.N. 66 of 2022)*
- (d) initiate an investigation in relation to the auditor or, if applicable, the registered responsible person;
- (e) impose a sanction on, or take an action in relation to, the auditor or, if applicable, the registered responsible person under section 37D, 37E, 37F or 37I(1); or *(Amended 41 of 2021 s. 47)*
- (f) take any other follow-up action in accordance with this Ordinance that the AFRC considers appropriate. *(Amended 41 of 2021 s. 47)*

Division 3—Investigation in relation to PIE Auditors, Non-

PIE Auditors, etc.

(Added 3 of 2019 s. 27)

Subdivision 1—Audit Investigation Board and FR Investigators

(Added 3 of 2019 s. 27. Amended L.N. 66 of 2022)

22. Audit Investigation Board

- (1) There is established by this section a board called the “Audit Investigation Board” in English and “審計調查委員會” in Chinese.
- (2) The Investigation Board is to consist of—
 - (a) the chief executive officer of the AFRC, as an ex officio member and chairperson; and
 - (b) at least one other member appointed by the AFRC.
(Amended 3 of 2019 s. 28; 41 of 2021 s. 105)
- (3) The AFRC must give notice of an appointment under subsection (2)(b) by notice published in the Gazette. *(Amended 3 of 2019 s. 28; 41 of 2021 s. 105)*
- (4) The Investigation Board may perform any of its functions, and its proceedings are valid, despite—
 - (a) a vacancy in the membership of the Board;
 - (b) a defect in the appointment or qualification of a person purporting to be a member of the Board; or
 - (c) a minor irregularity in the convening of any meeting of the Board.
- (5) Schedule 4 has effect with respect to the Investigation Board and its members.

(Format changes—E.R. 2 of 2020)

22A. AFRC may appoint FR investigators

(Amended 41 of 2021 s. 48; L.N. 66 of 2022)

- (1) The AFRC may, in writing, appoint— *(Amended 41 of 2021 s. 48)*
 - (a) an employee of the AFRC; or
 - (b) with the consent of the Financial Secretary, any other person,as an FR investigator for the purposes of this Ordinance.
- (2) The AFRC must provide the appointed FR investigator with a copy of the appointment.

(Added 3 of 2019 s. 29. Amended 41 of 2021 s. 48; L.N. 66 of 2022)

Subdivision 2—Conduct of Investigation

(Added 3 of 2019 s. 30)

23. AFRC may direct investigation to be carried out in relation to PIE auditors etc.

(Amended 41 of 2021 s. 49)

- (1) This section applies if the AFRC— *(Amended 41 of 2021 s. 49)*
 - (a) has reasonable cause to believe that a PIE auditor has carried out a PIE engagement completed on or after the 2019 Ordinance commencement date in a way that is not in the interest of the investing public or in the public interest;
 - (b) has reasonable cause to believe that a provision of this Ordinance may have been contravened by a PIE auditor or registered responsible person of a registered PIE auditor; or

- (c) for considering whether to impose a sanction under section 37D, 37E or 37F, has reason to inquire into whether a PIE auditor or registered responsible person of a registered PIE auditor, or a person while being such an auditor or responsible person, has or had committed FR misconduct.
- (2) The AFRC may direct an FR investigator to carry out an investigation into the way in which the PIE engagement was carried out, or into the possible contravention or FR misconduct.
- (3) The AFRC must provide the FR investigator with a copy of its direction.

(Replaced 3 of 2019 s. 31. Amended 41 of 2021 s. 49; L.N. 66 of 2022)

23A. AFRC may direct investigation to be carried out in relation to non-PIE auditors

(Amended 41 of 2021 s. 50)

- (1) If the AFRC has reasonable cause to believe that a non-PIE auditor has or had committed a practice irregularity within the meaning of section 4, the AFRC may direct an FR investigator to carry out an investigation into the possible irregularity.
- (2) The AFRC must provide the FR investigator with a copy of its direction.

(Added 3 of 2019 s. 32. Amended 41 of 2021 s. 50; L.N. 66 of 2022)

23B. AFRC may direct investigation in relation to PIE auditors etc. to be suspended

(Amended 41 of 2021 s. 51)

- (1) The AFRC may direct an FR investigator to suspend an investigation under this Division for a period of time the AFRC considers appropriate. *(Replaced 41 of 2021 s. 51)*
- (2) The AFRC must provide the FR investigator with a copy of its direction. *(Amended 41 of 2021 s. 51)*
(Added 3 of 2019 s. 32. Amended L.N. 66 of 2022)

24. AFRC to inform certain bodies of investigation in relation to PIE auditors etc.

(Replaced 3 of 2019 s. 33. Amended 41 of 2021 s. 52)

- (1) This section applies if—
 - (a) the AFRC directs an FR investigator to carry out an investigation under section 23 or 23A; and *(Amended 41 of 2021 s. 52; L.N. 66 of 2022)*
 - (b) the investigation relates to a PIE engagement or non-PIE engagement completed on or after the 2019 Ordinance commencement date for a listed entity specified in subsection (2). *(Replaced 3 of 2019 s. 33)*
- (1A) The AFRC must give a written notice to the specified enforcement agency referred to in subsection (3), informing it that the investigation is to be carried out. *(Added 3 of 2019 s. 33. Amended 41 of 2021 s. 52)*
- (2) A specified listed entity is— *(Amended 3 of 2019 s. 33)*
 - (a) a listed entity that— *(Amended 3 of 2019 s. 33)*
 - (i) is an authorized institution; or
 - (ii) to the AFRC's knowledge— *(Amended 3 of 2019 s. 33; 41 of 2021 s. 52)*
 - (A) is a controller of an authorized institution;
 - (B) has as its controller an authorized institution;

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- (C) has a controller that is also a controller of an authorized institution;
- (b) a listed entity that is an insurer authorized under the Insurance Ordinance (Cap. 41); (*Amended 12 of 2015 s. 149; 3 of 2019 s. 33*)
- (c) a listed entity that is— (*Amended 3 of 2019 s. 33*)
- (i) a licensed person within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571); or
- (ii) a collective investment scheme authorized under section 104 of that Ordinance; or
- (d) a listed entity that is an approved trustee within the meaning of section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485). (*Amended 3 of 2019 s. 33*)
- (3) The notice is to be given to—
- (a) in the case of a listed entity that falls within subsection (2)(a), the Monetary Authority;
- (b) in the case of a listed entity that falls within subsection (2)(b), the Insurance Authority;
- (c) in the case of a listed entity that falls within subsection (2)(c), the Securities and Futures Commission;
- (d) in the case of a listed entity that falls within subsection (2)(d), the Mandatory Provident Fund Schemes Authority.
- (4) For the purposes of subsection (1)(b), a reference to an engagement completed for a listed entity includes an engagement completed for the entity in preparation for its listing. (*Replaced 3 of 2019 s. 33*)

(*Format changes—E.R. 2 of 2020*)

(Heading repealed 3 of 2019 s. 34)

25. Powers of FR investigator

(Amended L.N. 66 of 2022)

- (1) For the purposes of an investigation under this Division, an FR investigator may require a person specified in subsection (2)— *(Amended L.N. 66 of 2022)*
 - (a) to produce, within the time and at the place the FR investigator requires in writing, any record or document specified by the FR investigator that— *(Amended L.N. 66 of 2022)*
 - (i) is or may be relevant to the investigation; and
 - (ii) is in the person's possession;
 - (b) to give an explanation or further particulars in relation to a record or document produced;
 - (c) to attend before the FR investigator at the time and place the FR investigator requires in writing, and to answer a question relating to any matter under investigation that may be raised by the FR investigator;
 - (d) to answer in writing, within the time the FR investigator requires in writing, a written question relating to any matter under investigation that may be raised by the FR investigator; and
 - (e) to give the FR investigator all other assistance in connection with the investigation that the person is reasonably able to give.
- (2) The person specified for subsection (1) is—
 - (a) a person who is relevant to the matter that an FR investigator is directed to investigate; or

- (b) a person whom an FR investigator has reasonable cause to believe— (*Amended L.N. 66 of 2022*)
- (i) to be in possession of a record or document that contains, or is likely to contain, information relevant to the investigation; or
 - (ii) to be otherwise in possession of the information.
- (*Replaced 3 of 2019 s. 35. Amended L.N. 66 of 2022*)

26. FR investigator may require explanation etc. to be verified by statutory declaration

(*Amended L.N. 66 of 2022*)

- (1) If a person gives any explanation, further particulars or answer in compliance with a requirement imposed under section 25(1), the FR investigator may, by written notice, require the person to verify the explanation, particulars or answer by a statutory declaration within the time specified in the notice.
- (2) If a person does not give any explanation, further particulars or answer in compliance with a requirement imposed under section 25(1) for the reason that the information concerned is not within the person's knowledge or possession, the FR investigator may, by written notice, require the person to verify that fact and reason by a statutory declaration within the time specified in the notice.
- (3) A statutory declaration under subsection (1) or (2) may be made before the FR investigator and, for that purpose, the FR investigator is to have full power to administer the statutory declaration.

(*Replaced 3 of 2019 s. 35. Amended L.N. 66 of 2022*)

27-28. (*Repealed 3 of 2019 s. 36*)

(Heading repealed 3 of 2019 s. 37)

29. FR investigator to consult before imposing certain requirements under sections 25 and 26

(Amended 3 of 2019 s. 38; L.N. 66 of 2022)

An FR investigator must not impose a requirement on a person under section 25 or 26 unless, before doing so, the FR investigator has consulted— *(Amended 3 of 2019 s. 38; L.N. 66 of 2022)*

- (a) if the person—
 - (i) is an authorized institution; or
 - (ii) to the AFRC's knowledge— *(Amended 3 of 2019 s. 38; 41 of 2021 s. 53)*
 - (A) is a controller of an authorized institution;
 - (B) has as its controller an authorized institution; or
 - (C) has a controller that is also a controller of an authorized institution,the Monetary Authority;
- (b) if the person is an insurer authorized under the Insurance Ordinance (Cap. 41), the Insurance Authority; *(Amended 12 of 2015 s. 150)*
- (c) if the person is—
 - (i) a licensed person within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571); or
 - (ii) a responsible person of a collective investment scheme authorized under section 104 of that Ordinance,the Securities and Futures Commission; and

- (d) if the person is an approved trustee within the meaning of section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), the Mandatory Provident Fund Schemes Authority.

(Format changes—E.R. 2 of 2020)

30. Use of incriminating evidence in proceedings after investigation in relation to PIE auditors etc.

(Amended 41 of 2021 s. 54)

- (1) If an FR investigator requires a person to give an explanation or further particulars, or to answer a question, under section 25, the FR investigator must ensure that the person has first been informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of the requirement and of the explanation or particulars, or the question and answer.
- (2) Despite anything in this Ordinance, if—
- (a) an FR investigator requires a person to give an explanation or further particulars, or to answer a question, under section 25; and *(Replaced 3 of 2019 s. 39)*
- (b) the explanation, particulars or answer might tend to incriminate the person, and the person claims this before giving the explanation or particulars, or answering the question, *(Replaced 3 of 2019 s. 39)*

the requirement, as well as the explanation or particulars, or the question and answer, are not admissible in evidence against the person in criminal proceedings in a court of law other than those in which the person is charged with an offence under section 31(1), (2), (5), (6) or (7), or under Part V of the Crimes Ordinance (Cap. 200), in relation to the explanation, particulars or answer.

(Amended 3 of 2019 s. 39; L.N. 66 of 2022)

(Format changes—E.R. 2 of 2020)

31. Offences relating to sections 25 and 26

(Amended 3 of 2019 s. 40)

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a specified requirement.
(Amended 3 of 2019 s. 40)
- (2) A person commits an offence if the person, with intent to defraud, fails to comply with a specified requirement.
(Amended 3 of 2019 s. 40)
- (3)-(4) *(Repealed 3 of 2019 s. 40)*
- (5) A person commits an offence if— *(Amended 3 of 2019 s. 40)*
 - (a) in purported compliance with a specified requirement, the person produces a record or document, or gives an explanation, further particulars or an answer, that is false or misleading in a material particular; and
 - (b) the person knows that, or is reckless as to whether or not, the record, document, explanation, particulars or answer is false or misleading in a material particular.
(Amended 3 of 2019 s. 40)
- (6) A person commits an offence if, in purported compliance with a specified requirement, the person, with intent to defraud, produces a record or document, or gives an explanation, further particulars or an answer, that is false or misleading in a material particular. *(Replaced 3 of 2019 s. 40)*
- (7) A person commits an offence if the person, with intent to defraud—
 - (a) causes or allows another person to fail to comply with a specified requirement; or

- (b) causes or allows another person, in purported compliance with a specified requirement, to produce a record or document, or give an explanation, further particulars or an answer, that is false or misleading in a material particular. *(Replaced 3 of 2019 s. 40)*
- (8) *(Repealed 3 of 2019 s. 40)*
- (9) A person is not excused from complying with a specified requirement only on the ground that to do so might tend to incriminate the person. *(Amended 3 of 2019 s. 40)*
- (10) Despite anything in this Ordinance, no criminal proceedings may be instituted against a person under subsection (1), (2), (5), (6) or (7) in respect of a conduct if— *(Amended 3 of 2019 s. 40)*
- (a) proceedings have previously been instituted against the person for the purposes of section 32(2)(b) in respect of the same conduct; and
- (b) those proceedings remain pending, or by reason of the previous institution of those proceedings, no proceedings may again be lawfully instituted against that person for the purposes of section 32(2)(b) in respect of the same conduct.
- (11) A person who commits an offence under subsection (1) is liable—
- (a) on conviction on indictment to a fine of \$200,000 and to imprisonment for 1 year; or
- (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months.
- (12) A person who commits an offence under subsection (5) is liable— *(Amended 3 of 2019 s. 40)*
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or

- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (13) A person who commits an offence under subsection (2), (6) or (7) is liable— (*Amended 3 of 2019 s. 40*)
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (14) In this section—
- specified requirement*** (指明要求) means a requirement imposed under—
- (a) section 25(1); or
 - (b) section 26(1) or (2). (*Added 3 of 2019 s. 40*)
- (Format changes—E.R. 2 of 2020)*

Subdivision 3—Findings of Investigation

(Subdivision 3 added 3 of 2019 s. 41)

31A. Report for investigation in relation to PIE auditors etc.

(Amended 41 of 2021 s. 55)

- (1) As soon as practicable after the completion of an investigation under this Division, the FR investigator must prepare and submit to the AFRC a written report in relation to the investigation. (*Amended L.N. 66 of 2022*)
- (2) The FR investigator— (*Amended L.N. 66 of 2022*)
 - (a) may prepare an interim report in relation to the investigation, if the FR investigator considers it appropriate to do so; and (*Amended L.N. 66 of 2022*)
 - (b) must prepare an interim report in relation to the investigation, if required by the AFRC to do so.

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- (3) Before submitting an investigation report to the AFRC, the FR investigator must— (*Amended 41 of 2021 s. 55; L.N. 66 of 2022*)
- (a) send a dated draft of the report to—
 - (i) the PIE auditor, non-PIE auditor or registered responsible person concerned; and
 - (ii) any other person named in the draft; and
 - (b) give any person to whom the draft is sent under paragraph (a) a reasonable opportunity of being heard.
- (4) The AFRC may— (*Amended 41 of 2021 s. 55*)
- (a) adopt the investigation report submitted by the FR investigator; and (*Amended L.N. 66 of 2022*)
 - (b) publish or otherwise disclose the report or any part of it.
- (5) In deciding whether to publish or otherwise disclose an investigation report or any part of it, the AFRC must take into account— (*Amended 41 of 2021 s. 55*)
- (a) whether the publication or disclosure may adversely affect any of the following proceedings that have been, or are likely to be, instituted—
 - (i) any proceedings under Part 3C;
 - (ii) any criminal proceedings before a court or magistrate;
 - (iii) any proceedings before the Market Misconduct Tribunal;
 - (iv) any proceedings under section 41 of the PA Ordinance; (*Replaced 41 of 2021 s. 55*)
 - (v) any proceedings before a Disciplinary Committee constituted under section 33(3) of the PA Ordinance as in force immediately before the 2021

Ordinance commencement date; (*Added 41 of 2021 s. 55*)

- (b) whether the publication or disclosure may adversely affect any person named in the report; and
 - (c) whether the publication or disclosure would be in the interest of the investing public or in the public interest.
- (6) A document purporting—
- (a) to be a copy of an investigation report adopted under subsection (4); and
 - (b) to be certified by the chairperson of the AFRC as a true copy of such a report,
- is, on its production without further proof, admissible as evidence of the facts stated in the report in any of the proceedings specified in subsection (7).
- (7) The proceedings are—
- (a) proceedings under Part 3C;
 - (b) civil proceedings before a court;
 - (c) proceedings before the Market Misconduct Tribunal;
 - (d) proceedings under section 41 of the PA Ordinance; or (*Replaced 41 of 2021 s. 55*)
 - (e) proceedings before a Disciplinary Committee constituted under section 33(3) of the PA Ordinance as in force immediately before the 2021 Ordinance commencement date. (*Added 41 of 2021 s. 55*)

(Amended 41 of 2021 s. 55)

31B. Action by AFRC in relation to investigation under Division 3 of Part 3A

(Amended 41 of 2021 s. 56)

- (1) This section applies if an investigation report is submitted to the AFRC under section 31A.
- (2) The AFRC may, in relation to the investigation— (*Amended 41 of 2021 s. 56*)
 - (a) close the case without further action; or
 - (b) take any follow-up action in accordance with this Ordinance that the AFRC considers appropriate.
- (3) If the investigation was carried out under section 23, the AFRC may also impose a sanction on, or take an action in relation to, the PIE auditor or registered responsible person concerned under section 37D, 37E, 37F or 37I(1).
- (4) In exercising a power under subsection (2) or (3), the AFRC must have regard to the investigation report.
- (5) As soon as practicable after deciding to exercise a power under subsection (2), the AFRC must issue a written notice of the decision to the PIE auditor, non-PIE auditor or registered responsible person concerned, unless the AFRC is satisfied that the notification may prejudice an action by the AFRC, or a specified body, relating to the investigation.

(Amended 41 of 2021 s. 56)

31C. Costs and expenses of investigation in relation to PIE auditors etc.

(Amended 41 of 2021 s. 57)

- (1) If, on a prosecution instituted as a result of the findings of an investigation under this Division, a person is convicted by a court or magistrate, the court or magistrate may order the person to pay to the AFRC a sum that is the whole or a part of the costs and expenses of the investigation.
- (2) The AFRC may recover the sum so ordered as a civil debt due to it.

(Amended 41 of 2021 s. 57)

Division 4—Supplementary Provisions Relating to Inspection and Investigation

(Added 3 of 2019 s. 42)

32. Powers of Court of First Instance in relation to failure to comply with specified requirements

(Replaced 3 of 2019 s. 43)

- (1) If a person fails to comply with a specified requirement, the FR inspector or FR investigator (as the case requires) may, by originating summons, request the Court of First Instance to exercise the powers under subsection (2). *(Replaced 3 of 2019 s. 43. Amended L.N. 66 of 2022)*
- (2) The Court of First Instance may— *(Amended 3 of 2019 s. 43)*
 - (a) on being satisfied that there is no reasonable excuse for the person not to comply with the requirement, order the person to comply with the requirement within the period specified by the Court; and
 - (b) on being satisfied that the failure was without reasonable excuse, punish the person, and any other person knowingly involved in the failure, in the same manner as if the person and, if applicable, that other person had been guilty of contempt of court. *(Amended 3 of 2019 s. 43)*
- (3) An originating summons under subsection (1) is to be in Form No. 10 in Appendix A to the Rules of the High Court (Cap. 4 sub. leg. A).
- (4) Despite anything in this Ordinance, no proceedings may be instituted against a person for the purposes of subsection (2)(b) in respect of a conduct if—

- (a) criminal proceedings have previously been instituted against the person under section 21F or 31 in respect of the same conduct; and
 - (b) those criminal proceedings remain pending, or by reason of the previous institution of those criminal proceedings, no criminal proceedings may again be lawfully instituted against that person under section 21F or 31 in respect of the same conduct. (*Amended 3 of 2019 s. 43*)
- (5) In this section—
- specified requirement*** (指明要求) means a requirement imposed under—
- (a) section 21C(2);
 - (b) section 21D(1) or (2);
 - (c) section 25(1); or
 - (d) section 26(1) or (2). (*Added 3 of 2019 s. 43*)
- (Format changes—E.R. 2 of 2020)*

33. Inspection of records or documents seized, etc.

If an FR inspector or FR investigator has taken possession of any record or document under this Part, the FR inspector or FR investigator must, subject to any reasonable conditions the FR inspector or FR investigator imposes as to security or otherwise, permit any person who would be entitled to inspect the record or document had the FR inspector or FR investigator not taken possession of it under this Part, to inspect it and to make copies or otherwise record details of it at all reasonable times.

(Amended 3 of 2019 s. 44; L.N. 66 of 2022)

(Format changes—E.R. 2 of 2020)

34. Magistrate's warrants

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- (1) If a magistrate is satisfied by information on oath laid by an FR inspector or FR investigator that there are reasonable grounds to suspect that there is, or is likely to be, on premises specified in the information any record or document that may be required to be produced under this Part, the magistrate may issue a warrant authorizing a person specified in it, and such other person as may be necessary to assist in the execution of the warrant, to— (*Amended 3 of 2019 s. 45; L.N. 66 of 2022*)
- (a) enter the premises, if necessary by force, at any time within 7 days, or any longer period specified in the warrant, beginning on the date of the warrant; and
 - (b) search for, seize and remove any record or document that the person so specified has reasonable cause to believe may be required to be produced under this Part. (*Amended 3 of 2019 s. 45*)
- (2) If an authorized person has reasonable cause to believe that another person on the premises is employed, or engaged to provide a service, in connection with a business that is or has been conducted on the premises, the authorized person may require that other person to produce for examination any record or document that—
- (a) is in the possession of that other person; and
 - (b) the authorized person has reasonable cause to believe may be required to be produced under this Part. (*Amended 3 of 2019 s. 45*)
- (3) An authorized person may, in relation to any record or document required to be produced under subsection (2)—
- (a) prohibit any person found on the premises from—
 - (i) removing the record or document from the premises;

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- (ii) erasing anything from, adding anything to or otherwise altering anything in, the record or document; or
 - (iii) otherwise interfering in any manner with, or causing or permitting any other person to interfere with, the record or document; or
 - (b) take any other step that appears to the authorized person to be necessary for—
 - (i) preserving the record or document; or
 - (ii) preventing interference with the record or document.
 - (4) Any record or document removed under this section may be retained for—
 - (a) a period not exceeding 6 months beginning on the day of its removal; or
 - (b) if the record or document is or may be required for—
 - (i) any criminal proceedings;
 - (ii) any proceedings before the Market Misconduct Tribunal; (*Amended 41 of 2021 s. 58*)
 - (iii) any proceedings under this Ordinance; (*Replaced 41 of 2021 s. 58*)
 - (iv) any proceedings under section 41 of the PA Ordinance; or (*Added 41 of 2021 s. 58*)
 - (v) any proceedings before a Disciplinary Committee constituted under section 33(3) of the PA Ordinance as in force immediately before the 2021 Ordinance commencement date, (*Added 41 of 2021 s. 58*)

such longer period as may be necessary for the purpose of those proceedings.

- (5) If an authorized person removes any record or document under this section, the person— (*Amended 3 of 2019 s. 45*)
- (a) must as soon as practicable after the removal give a receipt for the record or document; and
 - (b) may permit any person who would be entitled to inspect the record or document but for the removal—
 - (i) to inspect it at all reasonable times; and
 - (ii) to make copies or otherwise record details of it at all reasonable times. (*Amended 3 of 2019 s. 45*)
- (6) Section 102 of the Criminal Procedure Ordinance (Cap. 221) applies to any property that has by virtue of this section come into the possession of the FR inspector or FR investigator, as it applies to property that has come into the possession of the police. (*Amended 3 of 2019 s. 45; L.N. 66 of 2022*)
- (7) A person commits an offence if the person— (*Amended 3 of 2019 s. 45*)
- (a) without reasonable excuse, fails to comply with a requirement or prohibition under subsection (2) or (3); or
 - (b) obstructs an authorized person exercising a power conferred by subsection (2) or (3).
- (8) A person who commits an offence under subsection (7) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (9) In this section, **authorized person** (獲授權人) means a person authorized by a warrant issued under subsection (1) to carry out the act set out in paragraphs (a) and (b) of that subsection.

Accounting and Financial Reporting Council Ordinance

Part 3A—Division 4

3A-60

Section 35

Cap. 588

(Format changes—E.R. 2 of 2020)

(Heading repealed 3 of 2019 s. 46)

35-37. *(Repealed 3 of 2019 s. 47)*

Part 3B

Disciplinary Matters

(Amended 41 of 2021 s. 59)

(Part 3B added 3 of 2019 s. 48)

Division 1—Misconduct

37AA. CPA misconduct by professional persons

- (1) For the purposes of this Ordinance, a professional person is guilty of CPA misconduct if the person—
 - (a) does an act or makes an omission that amounts to a professional irregularity within the meaning of section 3B;
 - (b) is convicted of an offence under section 21F or 31;
 - (c) is punished by the Court of First Instance under section 32(2)(b) for failing to comply with a requirement imposed under section 21C(2), 21D(1) or (2), 25(1) or 26(1) or (2) or for being involved in the failure; or
 - (d) is punished by the Court of First Instance under section 45(2)(b) for failing to comply with a requirement imposed under section 43 or for being involved in the failure.
- (2) Without limiting subsection (1), where the professional person is a certified public accountant, the person is also guilty of CPA misconduct if the person—
 - (a) is convicted of an offence under Part V of the Crimes Ordinance (Cap. 200); or
 - (b) is convicted in Hong Kong or elsewhere of any offence involving dishonesty.

- (3) However, a professional person who does an act or makes an omission referred to in subsection (1)(a) is not to be regarded as being guilty of CPA misconduct if—
- (a) the person is a PIE auditor or a registered responsible person of a registered PIE auditor;
 - (b) the act or omission amounts to a practice irregularity within the meaning of section 4; and
 - (c) the person has accordingly committed FR misconduct as described in section 37A or 37B. (*Amended L.N. 66 of 2022*)

(Added 41 of 2021 s. 60)

37A. FR misconduct by PIE auditors

(Amended L.N. 66 of 2022)

For the purposes of this Ordinance, a PIE auditor has committed FR misconduct if the auditor— (*Amended L.N. 66 of 2022*)

- (a) has contravened a provision of this Ordinance (other than section 58A and the provisions of Parts 2A and 3AA);
- (b) has contravened a condition imposed in relation to the registration or recognition of the auditor under Part 3;
- (c) has contravened a requirement imposed under a provision of this Ordinance (other than the provisions of Parts 2A and 3AA);
- (d) has, in relation to a PIE engagement completed on or after the 2019 Ordinance commencement date, done an act or made an omission that, in the AFRC's opinion, is or is likely to be prejudicial to the interest of the investing public or the public interest; or
- (e) has done an act or made an omission that amounts to a practice irregularity within the meaning of section 4.

(Amended 41 of 2021 s. 61)

37B. FR misconduct by registered responsible persons

(Amended L.N. 66 of 2022)

For the purposes of this Ordinance, a registered responsible person of a registered PIE auditor has committed FR misconduct if the person— *(Amended L.N. 66 of 2022)*

- (a) has contravened a provision of this Ordinance (other than section 58A and the provisions of Parts 2A and 3AA);
- (b) has contravened a requirement imposed under a provision of this Ordinance (other than the provisions of Parts 2A and 3AA);
- (c) has, in relation to a PIE engagement completed by the auditor on or after the 2019 Ordinance commencement date, done an act or made an omission that, in the AFRC's opinion, is or is likely to be prejudicial to the interest of the investing public or the public interest; or
- (d) has done an act or made an omission that amounts to a practice irregularity within the meaning of section 4.

(Amended 41 of 2021 s. 62)

37C. Whether act or omission likely to be prejudicial to interest of investing public etc.

- (1) In forming an opinion for section 37A(d) or 37B(c) about whether an act or omission is or is likely to be prejudicial to the interest of the investing public or the public interest, the AFRC must have regard to the provisions specified in subsection (2).
- (2) The provisions are those set out in any code or guideline relating to the act or omission, which were published—

- (a) by the AFRC under this Ordinance;
- (b) by the Securities and Futures Commission under the Securities and Futures Ordinance (Cap. 571);
- (c) by the HKEC under the Listing Rules; or
- (d) by the HKICPA under the PA Ordinance.

(Amended 41 of 2021 s. 63)

Division 2—Sanctions

37CA. Sanctions for CPA misconduct

- (1) The AFRC may impose one or more of the sanctions specified in subsection (2)—
 - (a) on a professional person if the AFRC is satisfied that the person is guilty of CPA misconduct; or
 - (b) on a person if the AFRC is satisfied that the person was guilty of CPA misconduct while being a professional person.
- (2) The sanctions that may be imposed are—
 - (a) to reprimand the person publicly or privately;
 - (b) subject to section 37H, to order the person to pay a pecuniary penalty not exceeding \$500,000 to the AFRC;
 - (c) to order the person to pay the costs and expenses of, and costs and expenses incidental to, an investigation in relation to the person under Division 3 of Part 3AA;
 - (d) if the person is a professional person—
 - (i) to revoke the person’s registration; or
 - (ii) to suspend the person’s registration for a period of time, or until the occurrence of an event, that the AFRC considers appropriate;

- (e) if the person has a practising certificate—to cancel the practising certificate; and
 - (f) to order that the person not be issued with a practising certificate either permanently or for a period of time that the AFRC considers appropriate.
- (3) If a person is ordered to pay any penalty, costs or expenses under this section, the AFRC may recover the penalty, costs or expenses from the person as a civil debt.
- (4) If a certified public accountant's registration is revoked or suspended under subsection (2)(d)—
 - (a) the AFRC must inform the HKICPA Registrar of the revocation or suspension; and
 - (b) the HKICPA Registrar must—
 - (i) remove the accountant's name from the CPA register; and
 - (ii) for a suspension under subsection (2)(d)(ii)—restore the accountant's name to the CPA register when the suspension ends.
- (5) Nothing in this section requires the AFRC to inquire into the question whether a person was properly convicted of any offence, but the AFRC may consider—
 - (a) the record of a case in which a conviction was recorded; and
 - (b) any other evidence that may show the nature and gravity of the offence.

(Added 41 of 2021 s. 64)

37D. Sanctions for FR misconduct by PIE auditors

(Amended L.N. 66 of 2022)

- (1) The AFRC may impose one or more of the sanctions specified in subsection (3) on a PIE auditor if the AFRC is satisfied that the auditor has committed FR misconduct.
- (2) The AFRC may impose one or more of the sanctions specified in subsection (3)(b) on a person if the AFRC is satisfied that the person committed FR misconduct while being a PIE auditor.
- (3) The sanctions that may be imposed are—
 - (a) for a person who is a PIE auditor—
 - (i) to revoke the person's registration or recognition;
 - (ii) to suspend the person's registration or recognition for a period of time, or until the occurrence of an event, that the AFRC considers appropriate; and
 - (iii) to impose a condition on the person's registration or recognition; and
 - (b) for a person who is or was a PIE auditor—
 - (i) to reprimand the person publicly or privately;
 - (ii) to direct the person to carry out any remedial action specified by the AFRC;
 - (iii) to prohibit the person from applying to be registered or recognized as a PIE auditor for a period of time, or until the occurrence of an event, that the AFRC considers appropriate; and
 - (iv) subject to section 37H, to order the person to pay a pecuniary penalty, not exceeding the amount which is the greater of—
 - (A) \$10,000,000; or
 - (B) 3 times the amount of the profit gained or loss avoided by the person as a result of the FR misconduct.

(Amended 41 of 2021 s. 105; L.N. 66 of 2022)

37E. Sanctions for FR misconduct by registered responsible persons

(Amended L.N. 66 of 2022)

- (1) The AFRC may impose one or more of the sanctions specified in subsection (3) on a registered responsible person of a registered PIE auditor if the AFRC is satisfied that the person has committed FR misconduct.
- (2) The AFRC may impose one or more of the sanctions specified in subsection (3)(b) on a person if the AFRC is satisfied that the person committed FR misconduct while being a registered responsible person of a registered PIE auditor.
- (3) The sanctions that may be imposed are—
 - (a) for a person who is a registered responsible person of a registered PIE auditor—to remove the person’s name from the list of registered responsible persons of the auditor, either—
 - (i) permanently; or
 - (ii) for a period of time, or until the occurrence of an event, that the AFRC considers appropriate; and
 - (b) for a person who is or was a registered responsible person of a registered PIE auditor—
 - (i) to reprimand the person publicly or privately;
 - (ii) to direct the person to carry out any remedial action specified by the AFRC; and
 - (iii) subject to section 37H, to order the person to pay a pecuniary penalty, not exceeding the amount which is the greater of—
 - (A) \$10,000,000; or

- (B) 3 times the amount of the profit gained or loss avoided by the person as a result of the FR misconduct.

(Amended 41 of 2021 s. 105; L.N. 66 of 2022)

37F. Other cases in relation to PIE auditors and registered responsible persons

(Amended 41 of 2021 s. 65)

- (1) The AFRC may impose a sanction under section 37D(3)(a)(i) or (ii) in relation to a registered PIE auditor if the AFRC is satisfied that— *(Amended 41 of 2021 s. 65)*
- (a) for a registered PIE auditor who is a certified public accountant (practising)—
- (i) the auditor has entered into a voluntary arrangement with the auditor’s creditors under the Bankruptcy Ordinance (Cap. 6);
 - (ii) a bankruptcy order has been made against the auditor under the Bankruptcy Ordinance (Cap. 6);
 - (iii) the auditor has been convicted of an offence in Hong Kong or elsewhere that, in the AFRC’s opinion, impugns the fitness and properness of the auditor to remain registered; or
 - (iv) the auditor has been found by a court to be mentally incapacitated, or has been detained in a mental hospital, under the Mental Health Ordinance (Cap. 136);
- (b) for a registered PIE auditor that is a firm of certified public accountants (practising)—
- (i) a partner of the auditor has entered into a voluntary arrangement with the partner’s creditors under the Bankruptcy Ordinance (Cap. 6);

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- (ii) a bankruptcy order has been made against a partner of the auditor under the Bankruptcy Ordinance (Cap. 6);
 - (iii) a partner of the auditor has been convicted of an offence in Hong Kong or elsewhere that, in the AFRC's opinion, impugns the fitness and properness of the auditor to remain registered; or
 - (iv) a partner of the auditor has been found by a court to be mentally incapacitated, or has been detained in a mental hospital, under the Mental Health Ordinance (Cap. 136); or
 - (c) for a registered PIE auditor that is a corporate practice—
 - (i) a receiver or manager has been appointed in relation to the property or business of the auditor;
 - (ii) the auditor has entered into a scheme of arrangement with its creditors;
 - (iii) the auditor has gone into liquidation;
 - (iv) the auditor has been convicted of an offence in Hong Kong or elsewhere that, in the AFRC's opinion, impugns the fitness and properness of the auditor to remain registered;
 - (v) a director of the auditor has been convicted of an offence in Hong Kong or elsewhere that, in the AFRC's opinion, impugns the fitness and properness of the auditor to remain registered; or
 - (vi) a director of the auditor has been found by a court to be mentally incapacitated, or has been detained in a mental hospital, under the Mental Health Ordinance (Cap. 136).
- (2) The AFRC may impose a sanction under section 37E(3)(a) in relation to a registered responsible person of a registered PIE

auditor if the AFRC is satisfied that— (*Amended 41 of 2021 s. 65*)

- (a) the person has entered into a voluntary arrangement with the person's creditors under the Bankruptcy Ordinance (Cap. 6);
- (b) a bankruptcy order has been made against the person under the Bankruptcy Ordinance (Cap. 6);
- (c) the person has been convicted of an offence in Hong Kong or elsewhere that, in the AFRC's opinion, impugns the fitness and properness of the person to remain a registered responsible person of the auditor; or
- (d) the person has been found by a court to be mentally incapacitated, or has been detained in a mental hospital, under the Mental Health Ordinance (Cap. 136).

(Amended 41 of 2021 s. 65)

37G. AFRC to inform sanctions imposed

(Amended 41 of 2021 s. 66)

- (1) The AFRC must not impose a sanction on a person under this Division without first giving the person a reasonable opportunity of being heard.
- (2) If the AFRC decides to impose a sanction on a person under this Division, the AFRC must, by written notice, inform the person of its decision.
- (3) The notice must include—
 - (a) a statement of the reasons for the decision;
 - (b) the time when the decision is to take effect; and
 - (c) the details of the sanction imposed.

(Amended 41 of 2021 s. 66)

37H. Guidelines for exercise of power to impose pecuniary penalty

- (1) The AFRC must not impose a pecuniary penalty under section 37CA(2)(b), 37D(3)(b)(iv) or 37E(3)(b)(iii) unless—
(Amended 41 of 2021 s. 67)
 - (a) it has published, in the Gazette and in any other manner it considers appropriate, guidelines to indicate the way in which it exercises the power to impose the penalty; and
 - (b) it has had regard to the guidelines so published in imposing the penalty.
- (2) The guidelines are not subsidiary legislation.

Division 3—Miscellaneous

37I. AFRC's power to take action in place of or in addition to imposing sanctions with consent

(Amended 41 of 2021 s. 68)

- (1A) At any time when the AFRC is contemplating whether to impose a sanction on a person under section 37CA, the AFRC may, with the person's written consent—
 - (a) take any action referred to in section 37CA(2) in relation to the person; or
 - (b) take any other action in relation to the person that the AFRC considers appropriate. *(Added 41 of 2021 s. 68)*
- (1) At any time when the AFRC is contemplating whether to impose a sanction on a person under section 37D, 37E or 37F, the AFRC may, with the person's written consent— *(Amended 41 of 2021 s. 68)*
 - (a) take any action referred to in section 37D(3) or 37E(3) in relation to the person; or

- (b) take any other action in relation to the person that the AFRC considers appropriate.
- (2) The AFRC may take an action under subsection (1A) or (1) in relation to the person in place of, or in addition to, imposing any sanction on the person under section 37CA, 37D, 37E or 37F.
- (3) The AFRC may only take an action under subsection (1A) or (1) if it considers it appropriate to do so— (*Amended 41 of 2021 s. 68*)
 - (a) in the interest of the investing public; or
 - (b) in the public interest.
- (4) Before taking any action under subsection (1A) or (1) in relation to the person, the AFRC must issue a written notice to the person, which must specify the action to be taken by the AFRC, and the time within which the action is to be taken, as consented to by the person.

(Amended 41 of 2021 s. 68)

37J. Pecuniary penalty order

- (1) This section applies if the AFRC has made an order, requiring a person to pay a pecuniary penalty (***pecuniary penalty order***) under— (*Amended 41 of 2021 s. 69*)
 - (aa) section 37CA(2)(b); (*Added 41 of 2021 s. 69*)
 - (a) section 37D(3)(b)(iv);
 - (b) section 37E(3)(b)(iii); or
 - (c) section 37I(1A) or (1).
- (2) The person must pay the penalty to the AFRC— (*Amended 41 of 2021 s. 69*)

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- (a) for a pecuniary penalty order under section 37CA(2)(b), 37D(3)(b)(iv) or 37E(3)(b)(iii)— (*Amended 41 of 2021 s. 69*)
- (i) within 30 days after the pecuniary penalty order has taken effect under section 37ZD; or
 - (ii) within a longer period specified in the notice issued under section 37G(2); or
- (b) for a pecuniary penalty order under section 37I(1A) or (1)—within the time specified in the notice issued under section 37I(4).
- (3) The Court of First Instance may, on application by the AFRC, register the pecuniary penalty order.
- (4) The application must be accompanied by a copy of the notice issued under section 37G(2) or 37I(4), as the case requires.
- (5) On registration, the pecuniary penalty order is to be regarded as an order of the Court of First Instance made within the civil jurisdiction of the Court of First Instance for the payment of money.
- (6) Any money paid to or recovered by the AFRC under the pecuniary penalty order must be paid into the general revenue.

(Amended 41 of 2021 s. 69)

37K. Disclosure of sanctions etc.

- (1) This section applies if the AFRC has, in relation to a person— (*Amended 41 of 2021 s. 70*)
- (a) imposed any sanction under section 37CA, 37D, 37E or 37F; or
 - (b) taken any action under section 37I.

- (2) The AFRC must disclose to the public— (*Amended 41 of 2021 s. 70*)
- (a) the material facts relating to the case;
 - (b) its decision to impose a sanction or take an action, and the reasons for the decision; and
 - (c) the sanction imposed or action taken.
- (3) The disclosure may only be made after—
- (a) for a case where a sanction is imposed—
 - (i) the expiry of the period for lodging an application for review to the Tribunal in relation to the AFRC’s decision; or
 - (ii) if such an application is lodged, the review has been disposed of; or
 - (b) for a case where an action is taken—the notice under section 37I(4) is issued to the person concerned.
- (4) The AFRC must not make any disclosure under subsection (2) if— (*Amended 41 of 2021 s. 70*)
- (a) the disclosure relates to a private reprimand under section 37CA(2)(a), 37D(3)(b)(i) or 37E(3)(b)(i);
 - (b) the disclosure may adversely affect any criminal proceedings before a court or magistrate; or
 - (c) the disclosure, in the AFRC’s opinion, is not in the interest of the investing public or in the public interest.

(Amended 41 of 2021 s. 70)

37L. AFRC may have regard to any information or material when making decisions

(Amended 41 of 2021 s. 71)

In deciding whether to exercise a power under this Part, the AFRC may have regard to any information or material in its possession that is relevant to the decision, regardless of how the information or material has come into its possession.

(Amended 41 of 2021 s. 71)

Part 3C

Reviews and Appeals Regarding Decisions on Certified Public Accountants, Practice Units and PIE Auditors etc.

(Amended 41 of 2021 s. 72)

(Part 3C added 3 of 2019 s. 48)

Division 1—Preliminary

37M. Interpretation

In this Part—

leave application (許可申請) means an application made under section 37ZG;

specified period (指明限期), in relation to a specified decision, means the period of 21 days beginning on the day after the notice of the decision is issued by the decision authority to the person in relation to whom the decision is made. *(Amended 41 of 2021 s. 73)*

Division 2—Accounting and Financial Reporting Review Tribunal

(Amended 41 of 2021 s. 74)

37N. Accounting and Financial Reporting Review Tribunal

(Amended 41 of 2021 s. 75)

- (1) On and after the 2021 Ordinance commencement date, the tribunal established under the former section 37N(1) and known as the “Public Interest Entities Auditors Review

Tribunal” in English and “公眾利益實體核數師覆核審裁處” in Chinese immediately before that date is known as—

- (a) the “Accounting and Financial Reporting Review Tribunal” in English; and
 - (b) “會計及財務匯報覆核審裁處” in Chinese. (*Replaced 41 of 2021 s. 75*)
- (1A) Despite the repeal of the former section 37N(1)—
- (a) the tribunal established under that section continues in existence as the Tribunal on and after the 2021 Ordinance commencement date; and
 - (b) accordingly, the jurisdiction, powers, functions and duties of that tribunal are not affected in any way by the change of name effected by subsection (1). (*Added 41 of 2021 s. 75*)
- (1B) To avoid doubt, the repeal of the former section 37N(1) or the change of name effected by subsection (1) does not affect any power exercised or function or duty performed by that tribunal before the 2021 Ordinance commencement date. (*Added 41 of 2021 s. 75*)
- (2) The Tribunal—
- (a) consists of a chairperson and 2 other members; and
 - (b) is presided over by the chairperson.
- (3) Schedule 4A has effect with respect to the Tribunal.
- (4) In this section—
- former section 37N(1)* (原有第37N(1)條) means section 37N(1) as in force immediately before the 2021 Ordinance commencement date. (*Added 41 of 2021 s. 75*)

37O. Jurisdiction of Tribunal

The Tribunal has jurisdiction, in accordance with this Part and

Schedule 4A—

- (a) to review any specified decision; and
- (b) to hear and determine a question or issue arising out of, or in connection with, a review of a specified decision.

37P. Establishment of additional tribunals

- (1) If the Chief Executive considers it appropriate to do so, the Chief Executive may establish additional tribunals for any review over which the Tribunal has jurisdiction.
- (2) This Ordinance applies, with necessary modifications, to each of the additional tribunals as it applies to the Tribunal.

Division 3—Review of Specified Decisions

37Q. Application for review of specified decision

- (1) Subject to section 37R, a person who is aggrieved by a specified decision made in relation to the person may, at any time within the specified period, apply to the Tribunal for a review of the decision.
- (2) The application—
 - (a) must be in writing; and
 - (b) must state the grounds for the application.
- (3) The Tribunal must, as soon as practicable after receiving the application, send a copy of the application to—
 - (a) the decision authority; and
 - (b) if the decision authority is the HKICPA Council, the AFRC. (*Amended 41 of 2021 s. 105*)

37R. Extension of time for review application

- (1) The Tribunal may, on the written application within the

specified period by a person aggrieved by a specified decision made in relation to the person, by order extend the time for making a review application in relation to the decision.

- (2) Before deciding whether to grant an extension of time, the Tribunal must give the person who made the application and the decision authority a reasonable opportunity of being heard.
- (3) The Tribunal may grant an extension of time if it is satisfied that there is a good cause for doing so.

37S. Withdrawal of review application

- (1) A person who has made a review application may withdraw the application by written notice to the Tribunal.
- (2) The withdrawal may be made at any time before the hearing of the review.
- (3) The Tribunal may make an order for costs in relation to a review application and its withdrawal that the Tribunal considers appropriate.

37T. Determination of review

- (1) The Tribunal 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 with any direction it considers appropriate.
- (2) If a specified decision is set aside, the Tribunal may make another decision it considers appropriate (*new decision*) in substitution for the specified decision.
- (3) A varied or new decision made by the Tribunal under subsection (1)(a) or (2)—

- (a) may only be one that the decision authority had power to make in relation to the applicant for the review application, whether or not under the same provision under which the original specified decision was made; and
 - (b) may be more or less onerous than the original specified decision.
- (4) In reviewing a specified decision, the Tribunal must give the parties to the review a reasonable opportunity of being heard.
- (5) The standard of proof required to determine any question or issue before the Tribunal is the standard of proof applicable to civil proceedings in a court of law.

37U. Powers of Tribunal

- (1) Subject to Schedule 4A, the Tribunal may, for the purpose of a review, on its own initiative or on application by a party to the review—
- (a) receive and consider any material by way of oral evidence, written statements or documents, whether or not the material would be admissible in a court of law;
 - (b) determine the way in which any material mentioned in paragraph (a) is received;
 - (c) by written notice signed by the chairperson of the Tribunal, require a person—
 - (i) to attend before it at any sitting and to give evidence; and
 - (ii) to produce any article, record or document in the person's possession or control relating to the subject matter of the review;
 - (d) administer oaths;

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- (e) examine or cause to be examined, on oath or otherwise, a person attending before it and require the person to answer truthfully any question the Tribunal considers appropriate;
 - (f) order a witness to give evidence by affidavit;
 - (g) order a person not to publish or otherwise disclose any material the Tribunal receives;
 - (h) prohibit the publication or disclosure of any material the Tribunal receives at any sitting, or any part of a sitting, that is held in private;
 - (i) stay any of the proceedings in the review on any grounds, and on any terms and conditions, that the Tribunal considers appropriate having regard to the interests of justice;
 - (j) determine the procedure to be followed in the review; and
 - (k) exercise any other powers or make any other orders that may be necessary for, or ancillary to, the conduct of the review or the performance of the Tribunal's functions.
- (2) A person commits an offence if the person, without reasonable excuse—
- (a) fails to comply with an order, notice, prohibition or requirement of the Tribunal made, given or imposed under subsection (1);
 - (b) disrupts any sitting of the Tribunal or otherwise misbehaves during any sitting of the Tribunal;
 - (c) having been required by the Tribunal under subsection (1) to attend before the Tribunal, leaves the place where the person's attendance is so required without the Tribunal's permission;

- (d) hinders or deters any person from attending before the Tribunal, giving evidence or producing any article, record or document, for the purpose of a review;
 - (e) threatens, insults or causes any loss to be suffered by a person who has attended before the Tribunal, on account of the attendance; or
 - (f) threatens, insults or causes any loss to be suffered by the chairperson, or any other member, of the Tribunal at any time, on account of the performance of the chairperson's or member's functions.
- (3) A person who commits an offence under subsection (2) is liable—
- (a) on conviction on indictment—to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.
- (4) A person is not excused from complying with an order, notice, prohibition or requirement of the Tribunal made, given or imposed under subsection (1) only on the ground that to do so might tend to incriminate the person.

37V. Sittings of Tribunal to be held in public

- (1) Every sitting of the Tribunal for determining a review must be held in public.
- (2) Subsection (1) does not apply if the Tribunal, on its own initiative or on application by a party to the review, determines that a sitting, or any part of a sitting, must be held in private in the interests of justice.
- (3) The hearing of an application mentioned in subsection (2) must be held in private.

37W. Use of incriminating evidence given for purpose of review

- (1) This section applies if the Tribunal—
 - (a) requires a person to give evidence under section 37U(1)(c)(i);
 - (b) requires a person to answer any question under section 37U(1)(e);
 - (c) orders a person to give evidence under section 37U(1)(f);
or
 - (d) otherwise requires or orders a person to provide any information under section 37U(1)(k).
- (2) A person is not excused from complying with the requirement or order of the Tribunal only on the ground that the evidence, answer or information might tend to incriminate the person.
- (3) However, subsection (4) applies if the evidence, answer or information might tend to incriminate the person.
- (4) Despite anything in this Ordinance and subject to subsection (5), neither the evidence, answer or information given or provided by the person, nor the requirement or order of the Tribunal, is admissible in evidence against the person in criminal proceedings in a court of law.
- (5) Subsection (4) does not apply to criminal proceedings in which the person is charged, in relation to the evidence, answer or information, with an offence under—
 - (a) section 37U(2)(a); or
 - (b) Part V of the Crimes Ordinance (Cap. 200).

37X. Contempt dealt with by Tribunal

- (1) The Tribunal has the same powers as the Court of First Instance to punish for contempt.

- (2) Without limiting subsection (1), the Tribunal may punish for contempt a person who, without reasonable excuse, engages in conduct falling within section 37U(2) as if the conduct were a contempt of court and the Tribunal were the Court of First Instance.
- (3) The Tribunal must, in exercising its powers to punish for contempt, adopt the standard of proof the Court of First Instance would adopt in exercising the same powers.

37Y. Costs

- (1) The Tribunal may, in relation to a review, by order award to—
 - (a) a person whose attendance, whether or not as a witness, has been necessary or required for the purpose of the review; or
 - (b) a party to the review,a sum it considers appropriate in respect of the costs reasonably incurred by the person or party in relation to the review.
- (2) The costs awarded must be paid by, and are recoverable as a civil debt from—
 - (a) if they are awarded to a person under subsection (1)(a)—a party to the review that the Tribunal considers appropriate; or
 - (b) if they are awarded to a party to the review under subsection (1)(b)—the other party to the review.
- (3) Subject to any rules made by the Chief Justice under section 37ZJ, Order 62 of the Rules of the High Court (Cap. 4 sub. leg. A) applies to the award of costs, and to the taxation of any costs awarded, by the Tribunal under subsection (1).

37Z. Determination and order of Tribunal

- (1) The Tribunal must, as soon as practicable after determining a review, issue to each party to the review—
 - (a) its determination and the reasons for the determination; and
 - (b) any order made under section 37Y(1) for costs (*costs order*) and the reasons for the order.
- (2) If the review is made in relation to a specified decision by the HKICPA Council, the Tribunal must also issue to the AFRC the determination and costs order, and the reasons for the determination and order. (*Amended 41 of 2021 s. 105*)
- (3) If a sitting of the Tribunal, or a part of it, is held in private, the Tribunal may by order prohibit the publication or disclosure, wholly or partly, of the determination or costs order, or the reasons for the determination or order.
- (4) A person commits an offence if the person, without reasonable excuse, fails to comply with an order of the Tribunal made under subsection (3).
- (5) A person who commits an offence under subsection (4) is liable—
 - (a) on conviction on indictment—to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction—to a fine at level 6 and to imprisonment for 6 months.

37ZA. Form and proof of determination or order of Tribunal

- (1) A determination or order made by the Tribunal must—
 - (a) be in writing; and
 - (b) be signed by the chairperson of the Tribunal.

- (2) A document purporting to be a determination or order of the Tribunal and signed by the chairperson of the Tribunal is, in the absence of evidence to the contrary, presumed to be a determination or order of the Tribunal duly made and signed—
- (a) without proof of its making;
 - (b) without proof of the signature; and
 - (c) without proof that the person signing the determination or order was in fact the chairperson of the Tribunal.

37ZB. Registration of determination or order of Tribunal

- (1) The Court of First Instance may, on written notice given by the Tribunal in the way prescribed by rules made by the Chief Justice under section 37ZJ, register a determination or order of the 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.

37ZC. No other right of appeal

Subject to section 50 of the High Court Ordinance (Cap. 4) and section 37ZF, a determination or order of the Tribunal is final and is not subject to appeal.

Division 4—Taking Effect of Specified Decisions and Stay of Execution of Determinations or Orders of Tribunal

37ZD. Time when specified decision takes effect

- (1) Subject to subsection (2), a specified decision takes effect—
- (a) if, before the expiry of the specified period, the person in relation to whom the decision is made notifies the decision authority in writing that the person will

- not make a review application—on the day after the authority is notified;
- (b) subject to paragraph (a), if the person does not make a review application within the specified period, including any extension of time granted by the Tribunal under section 37R—on the day after the period expires; or
 - (c) if the person makes a review application—
 - (i) if the decision is confirmed by the Tribunal—on the day after the decision is confirmed;
 - (ii) if the decision is varied, or substituted by another decision, by the Tribunal—on the day after the decision is varied or substituted, subject to the terms of the variation or substitution; or
 - (iii) if the application is withdrawn—on the day after the application is withdrawn.
- (2) The decision authority may specify any other day on which a specified decision is to take effect, if it considers it appropriate in the public interest to do so.

37ZE. Application for stay of execution of determination or order of Tribunal

- (1) A party to a review may, at any time after the review is determined by the Tribunal, apply to the Tribunal for a stay of execution of the determination, or of an order, made by the Tribunal.
- (2) On an application under subsection (1), the Tribunal may, if it considers it appropriate to do so, order a stay of execution of the determination or of the order.
- (3) The Tribunal may attach any condition it considers appropriate to an order made under subsection (2), including

any condition as to costs or payment of money into the Tribunal.

Division 5—Appeals to Court of Appeal

37ZF. Party may appeal against Tribunal’s determination

- (1) If a party to a review is dissatisfied with a determination of the review made by the Tribunal, the party may appeal to the Court of Appeal against the determination on—
 - (a) a question of law;
 - (b) a question of fact; or
 - (c) a question of mixed law and fact.
- (2) No appeal may be made under subsection (1) unless leave to appeal has been granted by the Court of Appeal.

37ZG. Application for leave to appeal

- (1) A party to a review may apply to the Court of Appeal for leave to appeal against a determination of the review made by the Tribunal within 30 days after the day on which the determination is issued to the party.
- (2) The Court of Appeal may, on application by a party to a review, extend the time within which a leave application may be made.
- (3) The leave to appeal may be granted—
 - (a) in relation to a particular issue arising out of a determination by the Tribunal; and
 - (b) subject to any condition that the Court of Appeal considers necessary in order to secure the just, expeditious and economical disposal of the appeal.
- (4) The leave to appeal may only be granted if the Court of Appeal is satisfied that—

- (a) the appeal has a reasonable prospect of success; or
 - (b) there is some other reason in the interests of justice why the appeal should be heard.
- (5) The Court of Appeal may determine a leave application without a hearing on the basis of written submissions only.
- (6) No appeal lies from a decision of the Court of Appeal as to whether leave to appeal to it should be granted.

37ZH. Powers of Court of Appeal

- (1) The Court of Appeal may, on an appeal against a determination of the Tribunal—
- (a) allow the appeal;
 - (b) dismiss the appeal;
 - (c) vary or set aside the determination; or
 - (d) remit the matter in question to the Tribunal or to the decision authority with any direction it considers appropriate.
- (2) If a determination of the Tribunal is set aside, the Court of Appeal may make another determination it considers appropriate (*new determination*) in substitution for the determination.
- (3) A varied or new determination made by the Court of Appeal under subsection (1)(c) or (2)—
- (a) may only be one that the Tribunal had power to make in relation to the review in question; and
 - (b) may be more or less onerous than the Tribunal's original determination.
- (4) In an appeal under this section, the Court of Appeal may make any order for costs it considers appropriate.

37ZI. No stay of execution of Tribunal’s determination on appeal

- (1) Without prejudice to section 37ZE, the making of an appeal under section 37ZF against a determination of the Tribunal does not by itself operate as a stay of execution of the determination.
- (2) However, a party to the appeal may apply to the Court of Appeal for a stay of execution of the determination of the Tribunal.
- (3) On an application under subsection (2), the Court of Appeal may, if it considers it appropriate to do so, order a stay of execution of the determination of the Tribunal.
- (4) The Court of Appeal may attach any condition it considers appropriate to an order made under subsection (3), including any condition as to costs or payment of money into the Court.

Division 6—Miscellaneous

37ZJ. Power of Chief Justice to make rules

The Chief Justice may make rules—

- (a) providing for the award of costs under section 37Y and the taxation of those costs;
- (b) providing for matters relating to the registration by the Court of First Instance of determinations or orders of the Tribunal under section 37ZB;
- (c) regulating—
 - (i) the procedures for the hearing of appeals under section 37ZF; and
 - (ii) the procedures for making leave applications or applications for extension of time under section 37ZG, and for the hearing of the applications;

- (d) providing for matters relating to review applications or applications for a stay of execution of the determinations or orders of the Tribunal, that are not provided for in this Part or Schedule 4A;
 - (e) requiring the payment of the fees specified in the rules for matters relating to review applications or applications for a stay of execution of the determinations or orders of the Tribunal;
 - (f) providing for the issue or service (however described) of any document under this Part or Schedule 4A; and
 - (g) prescribing a matter that, as provided for in this Part, is to be or may be prescribed by rules made by the Chief Justice.
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Part 4

Relevant Non-compliances

(Format changes—E.R. 2 of 2020)

Division 1—Preliminary

38. Interpretation

- (1) In this Part, *enquirer* (查訊機構) means, subject to subsection (2), the AFRC. *(Amended 3 of 2019 s. 49; 41 of 2021 s. 105)*
- (2) If a Review Committee is appointed under section 40(1)(b) to make an enquiry concerning a relevant non-compliance, a reference to *enquirer* means, for the purpose of the non-compliance, the Committee.

39. Financial Reporting Review Panel

- (1) The Chief Executive must, in consultation with the AFRC, appoint a Financial Reporting Review Panel of at least 20 persons, whom the Chief Executive considers suitable for appointment under section 40(1)(b) as members of a Review Committee either because of their experience in accounting, auditing, finance, banking, law, administration or management, or because of their professional or occupational experience. *(Amended 41 of 2021 s. 105)*
- (2) The Chief Executive must appoint, from amongst the members of the Review Panel, at least 3 Panel Convenors.
- (3) The Chief Executive must give notice of each appointment under subsection (1) or (2) by notice published in the Gazette.
- (4) Schedule 5 has effect with respect to the Review Panel and its members.

(Amended 3 of 2019 s. 50)

40. Initiating enquiry concerning relevant non-compliance

- (1) If it appears to the AFRC that there is or may be a question whether or not there is a relevant non-compliance in relation to a listed entity, and the AFRC certifies in writing to that effect— *(Amended 3 of 2019 s. 51; 41 of 2021 s. 105)*
 - (a) the AFRC may, for the purpose of enquiring into the non-compliance or the question, exercise the powers under Division 2; or
 - (b) the AFRC may appoint a Financial Reporting Review Committee consisting of— *(Amended 3 of 2019 s. 51; 41 of 2021 s. 105)*
 - (i) a Panel Convenor appointed under section 39(2), who is to be the chairperson of the Review Committee; and
 - (ii) at least 4 other members of the Review Panel, to enquire, with those powers, into the non-compliance and the question.
- (2) On making an appointment under subsection (1)(b), the AFRC must notify the listed entity in writing of the names of the members of the Review Committee.
- (3) The AFRC must, on making an appointment under subsection (1)(b), specify the terms of reference of the Review Committee, and the Committee must act in accordance with those terms.
- (4) If a Review Committee is appointed to make an enquiry concerning a relevant non-compliance, the AFRC must not, for the purpose of enquiring into the non-compliance or the question whether or not there is such a non-compliance, exercise the powers under Division 2.

(Amended 3 of 2019 s. 51; 41 of 2021 s. 105)

41. Financial Reporting Review Committee

- (1) A Review Committee may perform any of its functions, and its proceedings are valid, despite—
 - (a) a vacancy in the membership of the Committee;
 - (b) a defect in the appointment or qualification of a person purporting to be a member of the Review Panel or the Committee; or
 - (c) a minor irregularity in the convening of any meeting of the Committee.
- (2) Schedule 6 has effect with respect to a Review Committee and its members.

42. AFRC to notify certain bodies of powers under Division 2 being exercisable

(Amended 3 of 2019 s. 52; 41 of 2021 s. 76)

- (1) If the AFRC certifies under section 40(1) that it appears to the AFRC that there is or may be a question whether or not there is a relevant non-compliance in relation to a listed entity to which this section applies, the AFRC must give a written notice in accordance with subsections (3) and (4). *(Amended 3 of 2019 s. 52; 41 of 2021 s. 76)*
- (2) This section applies to a listed entity—
 - (a) that—
 - (i) is an authorized institution; or
 - (ii) to the AFRC's knowledge— *(Amended 3 of 2019 s. 52; 41 of 2021 s. 76)*
 - (A) is a controller of an authorized institution;

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- (B) has as its controller an authorized institution;
or
- (C) has a controller that is also a controller of an authorized institution;
- (b) that is an insurer authorized under the Insurance Ordinance (Cap. 41); (*Amended 12 of 2015 s. 151*)
- (c) that is—
- (i) a licensed person within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571); or
- (ii) a collective investment scheme authorized under section 104 of that Ordinance; or
- (d) that is an approved trustee within the meaning of section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485).
- (3) The notice is to be given to—
- (a) in the case of a listed entity that falls within subsection (2)(a), the Monetary Authority;
- (b) in the case of a listed entity that falls within subsection (2)(b), the Insurance Authority;
- (c) in the case of a listed entity that falls within subsection (2)(c), the Securities and Futures Commission;
- (d) in the case of a listed entity that falls within subsection (2)(d), the Mandatory Provident Fund Schemes Authority.
- (4) The notice is to specify that the powers under Division 2 are exercisable for the purpose of enquiring into the relevant non-compliance or the question whether or not there is such a non-compliance.

Division 2—Powers for the purpose of enquiry**43. Powers to require production of records and documents and provision of information and explanation**

- (1) The enquirer may, in writing, require—
- (a) where the listed entity is a listed corporation, the listed corporation;
 - (b) where the listed entity is a listed collective investment scheme, a person who is, or was at the material time, a responsible person of the listed collective investment scheme;
 - (c) a relevant undertaking of the listed entity;
 - (d) a person who is, or was at the material time, an auditor of the corporation, scheme or undertaking; or
 - (e) a person who is, or was at the material time, an officer or employee of the corporation, responsible person or undertaking,

to produce or give, within the time and at the place specified in the requirement, any record or document, or any information or explanation, specified in the requirement if the enquirer has reasonable cause to believe, and certifies in writing that it has reasonable cause to believe, that the record or document, or the information or explanation, is relevant to the relevant non-compliance or to the question whether or not there is such a non-compliance.

- (2) The enquirer must not impose a requirement on a person under subsection (1) unless, before doing so, the enquirer has consulted— (*Amended 3 of 2019 s. 53*)
- (a) if the person—
 - (i) is an authorized institution; or

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- (ii) to the AFRC's knowledge— (*Amended 3 of 2019 s. 53; 41 of 2021 s. 77*)
- (A) is a controller of an authorized institution;
 - (B) has as its controller an authorized institution;
or
 - (C) has a controller that is also a controller of an authorized institution,
the Monetary Authority;
- (b) if the person is an insurer authorized under the Insurance Ordinance (Cap. 41), the Insurance Authority; (*Amended 12 of 2015 s. 152*)
- (c) if the person is—
- (i) a licensed person within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571); or
 - (ii) a responsible person of a collective investment scheme authorized under section 104 of that Ordinance,
the Securities and Futures Commission; and
- (d) if the person is an approved trustee within the meaning of section 2(1) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485), the Mandatory Provident Fund Schemes Authority.
- (3) A person is not excused from complying with a requirement imposed on the person under subsection (1) only on the ground that to do so might tend to incriminate the person. (*Amended 3 of 2019 s. 53*)

44. Use of incriminating evidence in proceedings

- (1) If the enquirer requires a person to give any information or

explanation under section 43(1), the enquirer must ensure that the person has first been informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of the requirement and of the information or explanation.

- (2) Despite anything in this Ordinance, if—
- (a) the enquirer requires a person to give any information or explanation under section 43(1); and
 - (b) the information or explanation might tend to incriminate the person, and the person so claims before giving the information or explanation,

the requirement, as well as the information or explanation, are not admissible in evidence against the person in criminal proceedings in a court of law other than those in which the person is charged with an offence under Part V of the Crimes Ordinance (Cap. 200) in respect of the information or explanation.

(Amended 3 of 2019 s. 54)

45. Powers of Court of First Instance in relation to failure to comply with requirements under section 43

(Amended 3 of 2019 s. 55)

- (1) If a person fails to comply with a requirement imposed on the person under section 43, the enquirer may, by originating summons, request the Court of First Instance to exercise the powers under subsection (2).
- (2) The Court of First Instance may— *(Amended 3 of 2019 s. 55)*
 - (a) on being satisfied that there is no reasonable excuse for the person not to comply with the requirement, order the person to comply with the requirement within the period specified by the Court; and

- (b) on being satisfied that the failure was without reasonable excuse, punish the person, and any other person knowingly involved in the failure, in the same manner as if the person and, if applicable, that other person had been guilty of contempt of court.
- (3) An originating summons under subsection (1) is to be in Form No. 10 in Appendix A to the Rules of the High Court (Cap. 4 sub. leg. A).

(Amended 3 of 2019 s. 55)

46. Inspection of records or documents seized, etc.

If the enquirer has taken possession of any record or document under this Division, the enquirer must, subject to any reasonable conditions the enquirer imposes as to security or otherwise, permit a person who would be entitled to inspect the record or document had the enquirer not taken possession of it under this Division, to inspect it and to make copies or otherwise record details of it at all reasonable times.

(Amended 3 of 2019 s. 56)

Division 3—Cases under enquiry

47. Enquiry reports

- (1) As soon as practicable after the completion of an enquiry under this Part, the enquirer must prepare a written report on the findings of the enquiry.
- (2) The enquirer may, if it thinks fit, prepare an interim report on the enquiry. But if the enquirer falls within section 38(2), the enquirer must also prepare an interim report on the enquiry as soon as practicable after being required by the AFRC to do so.

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- (3) The AFRC may adopt a report prepared under subsection (1) or (2).
 - (4) If, in the AFRC's opinion, any person named in a report prepared under subsection (1) or (2) would in the event of a publication or other disclosure of the report, or any part of the report, be adversely affected by the publication or disclosure, the enquirer must, before the report is adopted under subsection (3), first give the person a reasonable opportunity of being heard.
 - (5) After having adopted a report under subsection (3), the AFRC may publish or otherwise disclose the report or any part of it.
 - (6) In deciding whether to publish or otherwise disclose the report or any part of it, the AFRC must take into account—
(*Amended 41 of 2021 s. 78*)
 - (a) whether the publication or disclosure may adversely affect any of the following proceedings that have been, or are likely to be, instituted—
 - (i) any proceedings under Part 3C;
 - (ii) any criminal proceedings before a court or magistrate;
 - (iii) any proceedings before the Market Misconduct Tribunal;
 - (iv) any proceedings under section 41 of the PA Ordinance; (*Replaced 41 of 2021 s. 78*)
 - (v) any proceedings before a Disciplinary Committee constituted under section 33(3) of the PA Ordinance as in force immediately before the 2021 Ordinance commencement date; (*Added 41 of 2021 s. 78*)
 - (b) whether the publication or disclosure may adversely affect any person named in the report; and

- (c) whether the publication or disclosure would be in the interest of the investing public or in the public interest. *(Replaced 3 of 2019 s. 57)*
- (7) A document purporting—
- (a) to be a copy of a report adopted under subsection (3); and
- (b) to be certified by the chairperson of the AFRC as a true copy of such a report,
- is, on its production without further proof, admissible as evidence of the facts stated in the report in any of the proceedings specified in subsection (8). *(Replaced 3 of 2019 s. 57)*
- (8) The proceedings are—
- (a) proceedings under Part 3C;
- (b) civil proceedings before a court;
- (c) proceedings before the Market Misconduct Tribunal;
- (d) proceedings under section 41 of the PA Ordinance; or *(Replaced 41 of 2021 s. 78)*
- (e) proceedings before a Disciplinary Committee constituted under section 33(3) of the PA Ordinance as in force immediately before the 2021 Ordinance commencement date. *(Added 41 of 2021 s. 78)*

(Amended 3 of 2019 s. 57; 41 of 2021 s. 78)

48. AFRC's powers to close case, suspend enquiry and follow up, etc.

(Amended 3 of 2019 s. 58; 41 of 2021 s. 79)

- (1) The AFRC may, in relation to an enquiry under this Part concerning a relevant non-compliance— *(Amended 3 of 2019 s. 58; 41 of 2021 s. 79)*

- (a) close the case without further action;
 - (b) suspend the enquiry for such period as the AFRC thinks fit;
 - (c) secure the removal of the non-compliance in accordance with Division 4; or
 - (d) carry out such other follow-up action in accordance with this Ordinance as the AFRC thinks fit.
- (2) The AFRC must not, in relation to an enquiry under this Part, exercise a power under subsection (1) unless the AFRC has taken into account the report prepared under section 47(1) or (2) in relation to the enquiry.
- (3) As soon as practicable after deciding to exercise a power under subsection (1), the AFRC must give written notice of the decision to the listed entity concerned unless the AFRC is satisfied that the notification may prejudice the enquiry, or any other action by the AFRC, or a specified body, relating to the enquiry.

(Amended 3 of 2019 s. 58; 41 of 2021 s. 79)

Division 4—AFRC’s powers to secure removal of relevant non-compliance

(Amended 3 of 2019 s. 59; 41 of 2021 s. 80)

49. AFRC to give notice to operator of listed entities to secure removal of relevant non-compliance

(Amended 3 of 2019 s. 60; 41 of 2021 s. 81)

- (1) If, after the AFRC has taken into account a report prepared under section 47(1) or (2) for an enquiry concerning a relevant non-compliance in relation to a listed entity, it appears to the AFRC that there is or may be a question whether or not there is such a relevant non-compliance, the

AFRC may give a written notice to the operator of the listed entity in accordance with subsection (2).

- (2) The notice is to—
- (a) indicate the respects in which it appears to the AFRC that such a question arises or may arise;
 - (b) specify—
 - (i) such manner of revising the relevant financial report of the listed entity as the AFRC thinks fit; or
 - (ii) such other remedial action concerning that report as the AFRC thinks fit; and
 - (c) specify a period for the operator to—
 - (i) give a satisfactory explanation of the relevant financial report of the entity;
 - (ii) cause that report to be revised in such manner as specified in the notice; or
 - (iii) take such other remedial action concerning that report as specified in the notice.
- (3) In this section, *operator* (營辦人)—
- (a) in relation to a listed corporation, means the directors of the corporation;
 - (b) in relation to a listed collective investment scheme, means the manager of the scheme.

(Amended 3 of 2019 s. 60; 41 of 2021 s. 81)

50. AFRC may apply to Court of First Instance to secure removal of relevant non-compliance

(Amended 3 of 2019 s. 61; 41 of 2021 s. 82)

- (1) This section applies if—

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- (a) the AFRC gives a notice to the directors of a listed corporation under section 49(1); and (*Amended 3 of 2019 s. 61; 41 of 2021 s. 82*)
- (b) at the end of the period specified in the notice, or such longer period as the AFRC may allow, it appears to the AFRC that the directors have not— (*Amended 3 of 2019 s. 61; 41 of 2021 s. 82*)
- (i) given a satisfactory explanation of the relevant financial report of the corporation;
 - (ii) caused that report to be revised in such manner as specified in the notice; or
 - (iii) taken such other remedial action concerning that report as specified in the notice.
- (2) The AFRC may, by originating summons, apply to the Court of First Instance for— (*Amended 3 of 2019 s. 61; 41 of 2021 s. 82*)
- (a) a declaration that there is a relevant non-compliance in relation to the listed corporation; and
 - (b) an order requiring the directors of the corporation to—
 - (i) cause the relevant financial report of the corporation to be revised in such manner as the Court considers necessary; or
 - (ii) take such other remedial action concerning that report as the Court considers necessary, within the period specified in the order.
- (3) An originating summons under subsection (2) is to be in Form No. 10 in Appendix A to the Rules of the High Court (Cap. 4 sub. leg. A).
- (4) On making an application under subsection (2), the AFRC must deliver— (*Amended 3 of 2019 s. 61; 41 of 2021 s. 82*)

- (a) a copy of the notice of application; and
 - (b) a statement setting out the grounds for the application and the matter at issue in the proceedings, to the Securities and Futures Commission, and to the Registrar of Companies for registration.
- (5) If the Court of First Instance makes an order under subsection (2)(b), it may also give directions with respect to—
- (a) the audit of the accounts constituting the relevant financial report that has been revised pursuant to the order;
 - (b) the revision of the directors' report, or summary financial report, relating to the relevant financial report;
 - (c) the steps to be taken by the directors of the listed corporation to bring the order to the attention of those who are likely to rely on, or have relied on, the relevant financial report; or
 - (d) such other matters as the Court thinks fit.
- (6) If the Court of First Instance makes a declaration and order under subsection (2), it may also order all or part of any of the costs and expenses set out in subsection (7)—
- (a) to be borne by the directors of the listed corporation who were party to the approval of the relevant financial report; and
 - (b) to be recoverable from those directors as a civil debt.
- (7) The costs and expenses referred to in subsection (6) are—
- (a) the costs and expenses of and incidental to the application;
 - (b) in the case where the AFRC has enquired into, or has appointed a Review Committee to enquire into, the relevant non-compliance or the question whether or not

- there is such a non-compliance, the costs and expenses of and incidental to the enquiry; and (*Amended 3 of 2019 s. 61; 41 of 2021 s. 82*)
- (c) the costs and expenses incurred by the listed corporation in connection with, or in consequence of, revising the relevant financial report or carrying out remedies to the report.
- (8) If the Court of First Instance makes an order under subsection (6)—
- (a) it must have regard to whether each of the directors who were party to the approval of the relevant financial report knew, or ought to have known, that the report did not comply with any relevant requirement; and (*Amended 3 of 2019 s. 61*)
- (b) it may exclude one or more directors from the order or order the payment of different amounts by different directors.
- (9) On the conclusion of proceedings on an application under subsection (2), the AFRC must deliver— (*Amended 3 of 2019 s. 61; 41 of 2021 s. 82*)
- (a) a sealed copy of the declaration, order, direction or other determination made by the Court of First Instance; or
- (b) a notice that the application has failed or been withdrawn,
- to the Securities and Futures Commission, and to the Registrar of Companies for registration.
- (10) For the purposes of this section, the directors of a listed corporation at the time when the relevant financial report of the corporation was approved by them, except a director of the corporation who shows that the director took all reasonable steps to prevent the report from being so approved,

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were party to the approval of that report. (*Amended 3 of 2019 s. 61*)

Part 4A

Levies

(Part 4A added 3 of 2019 s. 62)

50A. Levies payable by sellers and purchasers of securities

- (1) A levy, calculated in accordance with section 1 of Schedule 7, is payable by the seller and purchaser in a sale and purchase of securities that is recorded on a recognized stock market or notified to a recognized exchange company under its rules.
- (2) A person who is liable to pay a levy under subsection (1) must pay the levy to the HKEC in the way and within the time specified by the HKEC.
- (3) The HKEC must pay the levy collected into a bank account specified by the AFRC on— *(Amended 41 of 2021 s. 105)*
 - (a) the 15th day of the month following the month in which the levy is collected; or
 - (b) if the 15th day is not a business day, the next business day.
- (4) The HKEC must keep—
 - (a) proper accounts of all transactions for which a levy is payable under subsection (1); and
 - (b) proper accounts relating to the collection and payment of levies.
- (5) In this section—

business day (營業日) means a day other than—

 - (a) a public holiday;
 - (b) a Saturday; or

- (c) a gale warning day or a black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);

rules (規章), in relation to a recognized exchange company, has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571).

50B. Levies payable by PIEs

- (1) A levy, calculated in accordance with section 2 of Schedule 7, is payable by a PIE for a calendar year.
- (2) A PIE must pay the levy to the HKEC in the way and within the time specified by the HKEC.
- (3) The HKEC must pay the levy collected into a bank account specified by the AFRC within 30 days after its collection. *(Amended 41 of 2021 s. 105)*
- (4) The HKEC must keep proper accounts relating to the collection and payment of levies.

50C. Levies payable by PIE auditors

- (1) A levy, calculated in accordance with section 3 of Schedule 7, is payable by a PIE auditor for a calendar year.
- (2) A PIE auditor must provide the AFRC with the information or document that the AFRC reasonably requires for ascertaining the levy payable by the auditor. *(Amended 41 of 2021 s. 83)*
- (3) A PIE auditor must pay the levy to the AFRC in the way and within the time specified by the AFRC. *(Amended 41 of 2021 s. 83)*
- (4)-(5) *(Repealed 41 of 2021 s. 83)*

50D. Reduction of levies

- (1) If, during a financial year of the AFRC, the conditions set

out in subsection (2) are satisfied, the AFRC must consult the Financial Secretary with a view to recommending to the Chief Executive in Council that the rate or amount of a levy payable under this Part be reduced.

- (2) The conditions are—
 - (a) that the reserves of the AFRC, after deducting depreciation and all provisions, are more than twice its estimated operating expenses for the financial year; and
 - (b) that the AFRC has no outstanding debt.
- (3) The AFRC may, after consulting the Financial Secretary under subsection (1), recommend to the Chief Executive in Council that the rate or amount of a levy payable under this Part be reduced.

(Amended 41 of 2021 s. 105)

50E. Levies paid not refundable

Levies paid under this Part are not refundable.

50F. AFRC may recover levy as civil debt

(Amended 41 of 2021 s. 84)

The AFRC may recover the amount of any levy payable under this Part as a civil debt due to it.

(Amended 41 of 2021 s. 84)

50G. AFRC may authorize persons to inspect accounts etc.

(Amended 41 of 2021 s. 85)

- (1) For ascertaining whether the HKEC is complying with or has complied with a provision under this Part, the AFRC may, in writing, authorize a person to, at reasonable times, inspect and make copies of the accounts kept by the HKEC under this Part. *(Amended 41 of 2021 s. 85)*

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- (2) An authorized person must, on request, produce a copy of the written authorization when performing the authorized functions.
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Part 5

Miscellaneous

(Format changes—E.R. 2 of 2020)

51. Preservation of secrecy

- (1) Except in the performance of any function under this Ordinance or for carrying into effect the provisions of this Ordinance, a specified person—
 - (a) must not suffer or permit any person to have access to any matter relating to the affairs of any person that comes to the specified person's knowledge in the performance of any function under this Ordinance; and
 - (b) must not communicate any such matter to any person other than the person to whom such matter relates.
- (2) Despite subsection (1), a specified person may—
 - (a) disclose information that has already been made available to the public;
 - (b) disclose information for the purpose of any criminal proceedings in Hong Kong or an investigation conducted with a view to bringing any such proceedings;
 - (c) disclose information for the purpose of seeking advice from, or giving advice by, counsel, or a solicitor, or other professional adviser, acting or proposing to act in a professional capacity in connection with any matter arising under this Ordinance;
 - (d) disclose information in connection with any judicial or other proceedings to which the specified person is a party; and

- (e) disclose information in accordance with an order of a court, magistrate or tribunal, or in accordance with a law or a requirement made under a law.
- (3) Despite subsection (1), the AFRC may— (*Amended 3 of 2019 s. 63; 41 of 2021 s. 86*)
- (a) subject to subsection (4), disclose information to a specified authority for the purpose of referring a case or complaint, or providing assistance, to the authority under section 12;
 - (b) subject to subsection (4), disclose information to—
 - (i) the Chief Executive;
 - (ii) the Financial Secretary;
 - (iii) the Secretary for Justice;
 - (iv) the Secretary for Financial Services and the Treasury;
 - (v) the Commissioner of Police of Hong Kong;
 - (vi) the Commissioner of the Independent Commission Against Corruption;
 - (vii) the Commissioner of Inland Revenue;
 - (viii) the Registrar of Companies;
 - (ix) the Official Receiver in a capacity other than that of a liquidator or provisional liquidator appointed under, or holding such office by virtue of, the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32); (*Amended 28 of 2012 ss. 912 & 920*)
 - (x) the Monetary Authority;
 - (xi) the Securities and Futures Commission;

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- (xii) a tribunal established by or under an enactment; (*Amended 41 of 2021 s. 86*)
 - (xiii) the Insurance Authority;
 - (xiv) the Mandatory Provident Fund Schemes Authority;
 - (xv) the HKICPA;
 - (xvi) an inspector appointed by the Financial Secretary under section 142 or 143 of the relevant Ordinance or section 840 or 841 of the Companies Ordinance (Cap. 622) to investigate the affairs of a corporation; (*Amended 28 of 2012 ss. 912 & 920*)
 - (xvii) a public officer authorized by the Secretary for Financial Services and the Treasury under subsection (12); or
 - (xviii) a recognized exchange company; (*Replaced 3 of 2019 s. 63*)
- (c) subject to subsection (4), if there is or has been an investigation under Part 3AA, an investigation under Part 3A concerning any PIE engagement or non-PIE engagement carried out for a listed corporation, or an enquiry under Part 4 concerning a relevant non-compliance in relation to a listed corporation, disclose information on the listed corporation to— (*Amended 3 of 2019 s. 63; 41 of 2021 s. 86*)
- (i) the Official Receiver in the capacity of a liquidator or provisional liquidator of the listed corporation appointed under, or holding such office by virtue of, the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32); or
 - (ii) any other person who—
 - (A) is a liquidator or provisional liquidator of the listed corporation appointed under the

Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32); or

- (B) acts in a similar capacity in relation to the listed corporation under any law of a place outside Hong Kong; (*Amended 28 of 2012 ss. 912 & 920*)
- (d) disclose information with the consent of—
- (i) the person from whom the information was obtained or received; and
 - (ii) if the information does not relate to such person, the person to whom it relates;
- (e) disclose information in summary form that is so framed as to prevent particulars relating to any person from being ascertained from it; and
- (f) disclose information for the purpose of, or in connection with, an audit under section 19.
- (4) The AFRC must not disclose information under subsection (3)(a), (b) or (c) unless the AFRC is of the opinion that— (*Amended 3 of 2019 s. 63; 41 of 2021 s. 86*)
- (a) the disclosure will enable or assist the recipient of the information to perform the recipient's functions; and
 - (b) it is not contrary to the interest of the investing public or to the public interest that the information should be so disclosed.
- (5) Subject to subsection (6), if information is disclosed pursuant to subsection (1), (2) or (3) (other than subsection (2)(a) or (3)(e))—
- (a) the person to whom the information is so disclosed; or
 - (b) any other person obtaining or receiving the information from that person,

must not disclose the information to any other person.

- (6) Subsection (5) does not prohibit the person referred to in subsection (5)(a) or (b) from disclosing the information to any other person if—
- (a) the AFRC consents to the disclosure; (*Amended 41 of 2021 s. 86*)
 - (b) the information has already been made available to the public;
 - (c) the disclosure is for the purpose of seeking advice from, or giving advice by, counsel, or a solicitor, or other professional adviser, acting or proposing to act in a professional capacity in connection with any matter arising under this Ordinance;
 - (d) the disclosure is in connection with any judicial or other proceedings to which the person so referred to is a party; or
 - (e) the disclosure is in accordance with an order of a court, magistrate or tribunal, or in accordance with a law or a requirement made under a law.
- (7) The AFRC may attach such conditions as it considers appropriate to— (*Amended 3 of 2019 s. 63; 41 of 2021 s. 86*)
- (a) a disclosure of information made by it pursuant to subsection (3); or
 - (b) a consent granted by it pursuant to subsection (6)(a).
- (8) Subsection (1) does not affect the operation of section 13(3) of The Ombudsman Ordinance (Cap. 397) or section 44(8) of the Personal Data (Privacy) Ordinance (Cap. 486).
- (9) Any specified person who contravenes subsection (1) commits an offence and is liable—

- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (10) A person commits an offence if—
 - (a) the person discloses any information in contravention of subsection (5); and
 - (b) at the time of the disclosure—
 - (i) the person knew, or ought to have known, that the information was previously disclosed to the person or any other person pursuant to subsection (1), (2) or (3) (other than subsection (2)(a) or (3)(e)); and
 - (ii) the person had no reasonable grounds to believe that subsection (5) does not apply to the person by virtue of subsection (6).
- (11) A person who commits an offence under subsection (10) is liable—
 - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (12) The Secretary for Financial Services and the Treasury may authorize any public officer as a person to whom information may be disclosed under subsection (3)(b)(xvii).
- (13) In this section, ***specified person*** (指明人士) means—
 - (a) the AFRC; (*Amended 41 of 2021 s. 86*)
 - (ab) a CPA inspector, CPA investigator, FR inspector or FR investigator; or (*Replaced 41 of 2021 s. 86. Amended L.N. 66 of 2022*)
 - (b) any person who—

- (i) is or has been—
 - (A) a member of the AFRC, the Investigation Board, a Review Committee or a committee established by the AFRC;
 - (B) a related person of the AFRC; or
 - (C) a person employed by or assisting a related person of the AFRC; and (*Amended 41 of 2021 s. 86*)
- (ii) performs or has performed any function under this Ordinance.

(Amended 3 of 2019 s. 63)

52. Protection of informers

- (1) Any information on the identity of a relevant person is not admissible in evidence in—
 - (a) any proceedings under Part 3C; (*Replaced 3 of 2019 s. 64*)
 - (b) any civil or criminal proceedings before a court or magistrate; (*Replaced 3 of 2019 s. 64*)
 - (c) any proceedings before a tribunal established by or under an enactment (*statutory tribunal*); (*Replaced 3 of 2019 s. 64*)
 - (d) any proceedings under section 41 of the PA Ordinance; or (*Replaced 41 of 2021 s. 87*)
 - (e) any proceedings before a Disciplinary Committee constituted under section 33(3) of the PA Ordinance as in force immediately before the 2021 Ordinance commencement date (*Disciplinary Committee*). (*Added 41 of 2021 s. 87*)
- (2) In such proceedings, a witness is not obliged—

- (a) to disclose the name or address of a relevant person who is not a witness in those proceedings; or
 - (b) to state any matter that would lead, or would tend to lead, to discovery of the name or address of a relevant person who is not a witness in those proceedings.
- (3) If a book, document or paper that is in evidence, or liable to inspection, in such proceedings contains an entry—
 - (a) in which a relevant person is named or described; or
 - (b) that might lead to discovery of a relevant person, the Tribunal, the Court of Appeal, the court, the magistrate, the statutory tribunal or the Disciplinary Committee, as the case may be, must cause all such passages to be concealed from view, or to be obliterated, so far as may be necessary to protect the relevant person from discovery. (*Amended 3 of 2019 s. 64*)
- (4) In such proceedings, the Tribunal, the Court of Appeal, the court, the magistrate, the statutory tribunal or the Disciplinary Committee, as the case may be, may, despite subsection (1), (2) or (3), permit inquiry, and require full disclosure, concerning a relevant person if— (*Amended 3 of 2019 s. 64; 41 of 2021 s. 87*)
 - (a) it is of the opinion that justice cannot be fully done between the parties to the proceedings without disclosure of the name of the relevant person; or
 - (b) in the case of a relevant person falling within paragraph (a) of the definition of **relevant person** in subsection (6), it is satisfied that the relevant person made a material statement that the relevant person— (*Amended 3 of 2019 s. 64*)
 - (i) knew or believed to be false; or
 - (ii) did not believe to be true.

- (5) This section has effect despite sections 20ZZN, 31A and 47. (*Amended 3 of 2019 s. 64*)
- (6) In this section, **relevant person** (有關人士) means—
- (a) an informer who has given information to the AFRC, a CPA investigator, an FR investigator or a Review Committee with respect to an investigation under Part 3AA or 3A or an enquiry under Part 4; or
 - (b) a person who has assisted the AFRC, a CPA investigator, an FR investigator or a Review Committee with respect to such an investigation or enquiry. (*Amended 3 of 2019 s. 64; L.N. 66 of 2022*)
- (*Amended 41 of 2021 s. 87*)

53. Avoidance of conflict of interests

- (1) This section applies to a person who—
- (a) is a member of the AFRC, the Investigation Board, a Review Committee or a committee established by the AFRC; or (*Amended 41 of 2021 s. 88*)
 - (b) performs a function under this Ordinance.
- (2) If, in the course of performing a function under this Ordinance, a person is required to consider a matter in which the person has an interest that is of a class or description determined by the AFRC under subsection (3)(a), the person must immediately disclose the interest to the AFRC. (*Amended 41 of 2021 s. 88*)
- (3) The AFRC may—
- (a) determine the class or description of the interest required to be disclosed;
 - (b) determine the details of the interest required to be disclosed and the way in which the interest is to be disclosed; and

- (c) from time to time change any matter determined under paragraph (a) or (b). *(Replaced 21 of 2021 s. 88)*
- (4) Particulars of a disclosure made under this section must be recorded by the AFRC in a book kept for the purpose and that book must be open at all reasonable hours for inspection by the public. *(Replaced 21 of 2021 s. 88)*
- (5) After a person has disclosed an interest in a matter, the person must not, unless the AFRC otherwise determines—
- (a) be present during a deliberation of the AFRC with respect to the matter; or
- (b) take part in a decision of the AFRC with respect to the matter. *(Replaced 21 of 2021 s. 88)*
- (6) For the purpose of making a determination by the AFRC under subsection (5), a person who has an interest in a matter to which the disclosure relates must not—
- (a) be present during the AFRC's deliberation for making the determination; or
- (b) take part in the AFRC's making of the determination. *(Replaced 21 of 2021 s. 88)*
- (7) If the AFRC determines under subsection (5) that a person may be present during any deliberation, or take part in any decision, of the AFRC, Investigation Board or Review Committee, or a committee established by the AFRC, the AFRC must give written notice of the determination to— *(Amended 3 of 2019 s. 65; 41 of 2021 s. 88)*
- (a) in the case of a deliberation or decision with respect to an inspection or investigation under Part 3AA or 3A, or an exercise of power under Part 3B—the practice unit, certified professional accountant, PIE auditor, non-PIE auditor or registered responsible person concerned, as the case requires; or *(Amended 41 of 2021 s. 88)*

- (b) *(Repealed 3 of 2019 s. 65)*
 - (c) in the case of a deliberation or decision with respect to an enquiry under Part 4 concerning a relevant non-compliance—the listed entity concerned.
 - (8) *(Repealed 41 of 2021 s. 88)*
 - (9) A contravention of this section does not invalidate a decision of the AFRC, Investigation Board or Review Committee, or a committee established by the AFRC. *(Amended 41 of 2021 s. 88)*
 - (10) *(Repealed 41 of 2021 s. 88)*
- (Amended 3 of 2019 s. 65)*

54. Immunity

- (1) A person who complies with a specified requirement does not incur any civil liability, whether arising in contract, tort, defamation, equity or otherwise, by reason only of the compliance.
- (2) A person does not incur any civil liability, whether arising in contract, tort, defamation, equity or otherwise, in respect of anything done, or omitted to be done, by the person in good faith in the performance, or purported performance, of any function under this Ordinance.
- (3) In this section—
specified requirement (指明要求) means a requirement imposed under—
 - (aa) section 20ZZC(1); *(Added 41 of 2021 s. 89)*
 - (aab) section 20ZZJ(1); *(Added 41 of 2021 s. 89)*
 - (a) section 21C(2);
 - (b) section 21D(1) or (2);
 - (c) section 25(1);

- (d) section 26(1) or (2);
- (e) section 34; or
- (f) section 43. (*Added 3 of 2019 s. 66*)

(Amended 3 of 2019 s. 66)

55. Immunity in respect of communication with AFRC

(Amended 3 of 2019 s. 67; 41 of 2021 s. 90)

- (1) Without prejudice to section 54, if a person communicates in good faith to the AFRC any information or opinion on a specified matter— (*Amended 3 of 2019 s. 67; 41 of 2021 s. 90*)
 - (a) in relation to a listed entity of which the person becomes or became aware while working in or for the PIE auditor or non-PIE auditor of the entity; or
 - (b) in relation to a practice unit of which the person becomes or became aware while working in or for the unit,
the person does not incur any civil liability, whether arising in contract, tort, defamation, equity or otherwise, by reason only of the communication. (*Amended 41 of 2021 s. 90*)
- (2) For the avoidance of doubt, subsection (1) applies even though the person has previously communicated the information or opinion to any other person.
- (3) In this section—
specified matter (指明事宜)—
 - (a) in relation to a listed entity—means a matter, whether occurring before, during or after the entity is or was listed, that, in the opinion of a person referred to in subsection (1)(a), suggests that—

- (i) a practice irregularity within the meaning of section 4 has been committed in relation to a PIE engagement or non-PIE engagement carried out for the entity;
 - (ii) there is a relevant non-compliance within the meaning of section 5 in relation to the entity; or
 - (iii) FR misconduct within the meaning of section 37A or 37B has been committed in relation to a PIE engagement or non-PIE engagement carried out for the entity; or (*Amended L.N. 66 of 2022*)
- (b) in relation to a practice unit—means a matter that, in the opinion of a person referred to in subsection (1)(b), suggests that a professional person is guilty of CPA misconduct within the meaning of section 37AA in relation to the unit. (*Replaced 41 of 2021 s. 90*)

56. Legal professional privilege

- (1) Subject to subsection (2), this Ordinance does not affect any claims, rights or entitlements that would, apart from this Ordinance, arise on the ground of legal professional privilege.
- (2) Subsection (1) does not affect any requirement under this Ordinance to disclose the name and address of a client of a legal practitioner (whether or not the legal practitioner is qualified in Hong Kong to practise as counsel or to act as a solicitor).

57. Production of information in information systems

- (1) If—
 - (a) a person may require the production of any record or document under Part 3AA, 3A or 4; and

- (b) any information or matter contained in such record or document is recorded otherwise than in a legible form but is capable of being reproduced in a legible form,

the person may also require the production of a reproduction of the recording of the information or matter, or the relevant part of the recording, in a legible form.

- (2) If—

- (a) a person may require the production of any record or document under Part 3AA, 3A or 4; and

- (b) any information or matter contained in such record or document is recorded in an information system,

the person may also require the production of a reproduction of the recording of the information or matter, or the relevant part of the recording, in a form that enables the information or matter to be reproduced in a legible form.

(Amended 3 of 2019 s. 68; 41 of 2021 s. 91)

58. Lien claimed on records or documents

If a person claims a lien on any record or document in the person's possession that is required to be produced under Part 3AA, 3A or 4— *(Amended 3 of 2019 s. 69; 41 of 2021 s. 92)*

- (a) the lien does not affect the requirement to produce the record or document;
- (b) no fee is payable for or in respect of the production; and
- (c) the production does not affect the lien.

58A. Offences in relation to certificate or document presented to AFRC

- (1) A person commits an offence if the person—

- (a) impersonates a person (*person A*) referred to in any certificate or document presented to the AFRC; or
 - (b) falsely represents himself, herself or itself as being person A.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 4 and to imprisonment for 12 months.

(Added 41 of 2021 s. 93)

59. Destruction of documents, etc.

- (1) A person commits an offence if the person destroys, falsifies, conceals or otherwise disposes of, or causes or permits the destruction, falsification, concealment or disposal of, any record or document required to be produced under Part 3A or 4, with intent to conceal, from the person by whom the requirement to produce was imposed, facts or matters capable of being disclosed by the record or document. *(Amended 3 of 2019 s. 70)*
- (2) A person who commits an offence under subsection (1) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

59A. Reasonable excuse

- (1) This section applies if a provision of this Ordinance that creates an offence makes a reference to a reasonable excuse for an act or omission.

- (2) The reference to a reasonable excuse is to be construed as providing for a defence to a charge in relation to the act or omission.
- (3) A defendant is to be taken to have established that the defendant had a reasonable excuse for the act or omission if—
 - (a) sufficient evidence is adduced to raise an issue that the defendant had such a reasonable excuse; and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.

(Added 3 of 2019 s. 71)

60. Service of notice, etc.

- (1) This section applies to a notice or other document required or permitted to be given, sent or issued (however described) under this Ordinance. *(Replaced 3 of 2019 s. 72)*
- (2) Such a notice or document is taken to be given, sent or issued to a person if— *(Amended 3 of 2019 s. 72)*
 - (a) in the case of an individual, it is—
 - (i) delivered to the individual by hand;
 - (ii) left at, or sent by post to, the individual's last known business or residential address;
 - (iii) sent by facsimile transmission to the individual's last known facsimile number; or
 - (iv) sent by electronic mail transmission to the individual's last known electronic mail address; *(Amended 3 of 2019 s. 72)*
 - (b) in the case of a company, it is—
 - (i) delivered to any officer of the company by hand;

- (ii) left at, or sent by post to, the company's registered office in Hong Kong; (*Amended 28 of 2012 ss. 912 & 920*)
 - (iii) sent by facsimile transmission to its last known facsimile number; or
 - (iv) sent by electronic mail transmission to its last known electronic mail address;
- (c) in the case of a registered non-Hong Kong company as defined by section 2(1) of the Companies Ordinance (Cap. 622), it is— (*Amended 28 of 2012 ss. 912 & 920*)
 - (i) delivered by hand to, or sent by post to, the person resident in Hong Kong who is authorized to accept service of process and notices on its behalf at the person's address delivered to the Registrar of Companies under that Ordinance; (*Amended 3 of 2019 s. 72*)
 - (ii) sent by facsimile transmission to the last known facsimile number of the person; or
 - (iii) sent by electronic mail transmission to the last known electronic mail address of the person;
- (d) in the case of a partnership, it is—
 - (i) delivered to any partner of the partnership by hand;
 - (ii) left at, or sent by post to, the last known principal place of business of the partnership;
 - (iii) sent by facsimile transmission to the last known facsimile number of the partnership; or
 - (iv) sent by electronic mail transmission to the last known electronic mail address of the partnership;
- (e) in the case of a body corporate (other than a company, or a registered non-Hong Kong company as defined by

section 2(1) of the Companies Ordinance (Cap. 622)) or an unincorporated association (other than a partnership), it is— (*Amended 28 of 2012 ss. 912 & 920*)

- (i) delivered to any officer of the body or association by hand;
- (ii) left at, or sent by post to, the last known principal place of business of the body or association;
- (iii) sent by facsimile transmission to the last known facsimile number of the body or association; or
- (iv) sent by electronic mail transmission to the last known electronic mail address of the body or association.

60A. Chief Executive in Council may make regulations

- (1) The Chief Executive in Council may, after consulting the AFRC, make regulations— (*Amended 41 of 2021 s. 105*)
 - (a) prescribing fees and providing for payment of the fees—
 - (i) for anything done by the AFRC or a committee established by the AFRC in performing a function under this Ordinance; and
 - (ii) for any other matter provided for by or under this Ordinance;
 - (b) prescribing fees (however described) that are required or permitted to be prescribed by regulations made under this section; and
 - (c) prescribing any other matter that, by this Ordinance, is required or permitted to be prescribed by regulations made under this section.
- (2) Fees prescribed by regulations made under this section are not to be limited by reference to the amount of the administrative or other costs incurred, or likely to be incurred, by the

HKICPA or the AFRC (or a committee established by the HKICPA or the AFRC) in performing the functions to which the fees relate.

- (3) Regulations made under this section—
 - (a) may provide that the amount of a fee is to be fixed by reference to a scale set out in the regulations;
 - (b) may provide for the payment of different fees by persons, or in relation to persons or cases, of different classes or descriptions;
 - (c) may provide that the payment of a fee is waived, either generally or in a particular case; and
 - (d) may provide for the payment of fees annually or at other intervals.
- (4) The AFRC may recover the amount of any fee payable under the regulations made under this section as a civil debt due to it.

(Added 3 of 2019 s. 73. Amended 41 of 2021 s. 105)

60B. AFRC may make regulations

(Amended 41 of 2021 s. 94)

- (1) The AFRC may make regulations— *(Amended 41 of 2021 s. 94)*
 - (a) providing for the applications for registration and recognition as PIE auditors, renewal of registration and recognition, and incidental matters;
 - (b) providing for the maintenance of the PIE auditors register and the correction of errors in the register;
 - (c) providing for the admissibility in evidence in judicial or other proceedings of specified records kept by the AFRC; *(Amended 41 of 2021 s. 94)*

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- (d) providing for the form and way in which documents and information required to be lodged, filed, submitted or retained for a provision of this Ordinance—
 - (i) are to be completed, signed, executed or authenticated; or
 - (ii) are to be lodged, filed, submitted or retained;
 - (e) providing for the form and way in which a record is to be compiled for a provision of this Ordinance;
 - (f) providing for the returns to be made by PIE auditors and registered responsible persons of registered PIE auditors, including the contents of the returns, and the time within which and the form and way in which the returns are to be made; and
 - (g) prescribing any other matter that, by this Ordinance, is required or permitted to be prescribed by regulations made under this subsection.
- (2) In addition to the power to make regulations under subsection (1), the AFRC may, after consulting the Financial Secretary, make other regulations that are necessary for the performance of any of its functions. (*Amended 41 of 2021 s. 94*)
- (3) Except as otherwise provided in this Ordinance, regulations made under this section—
- (a) may be of general or special application or may be made so as to apply only in specified circumstances;
 - (b) may make different provisions for different circumstances and provide for different cases or classes of cases;
 - (c) may authorize a matter or thing to be determined, applied or regulated by a specified person;
 - (d) may provide for the exercise of a discretion in specified cases; and

- (e) may, for the better carrying out of any provision of this Ordinance, include any savings, transitional, incidental, supplemental, evidential and consequential provisions (whether or not involving the provisions of an Ordinance).
- (4) Regulations made under this section may prescribe offences for contravention of the regulations, which are punishable by a fine, imprisonment or both.
- (5) The maximum penalty that may be prescribed for an offence under subsection (4) is—
- (a) for an offence of which a person is convicted on indictment—a fine of \$500,000 and imprisonment for 2 years; or
- (b) for an offence of which a person is summarily convicted—a fine at level 6 and imprisonment for 6 months.

(Added 3 of 2019 s. 73)

60C. AFRC must publish draft regulations

(Amended 41 of 2021 s. 95)

- (1) If the AFRC proposes to make regulations under section 60B, it must publish a draft of the proposed regulations, in the way it considers appropriate, for inviting representations on the proposed regulations by the public.
- (2) If the AFRC makes regulations after a draft has been published under subsection (1), it must comply with subsections (3) and (4).
- (3) The AFRC must publish, in the way it considers appropriate, an account setting out in general terms— *(Amended 41 of 2021 s. 95)*
- (a) the representations made on the draft; and

- (b) the response of the AFRC to the representations.
- (4) If the AFRC considers the regulations made are significantly different from the draft, the AFRC must publish, in the way it considers appropriate, details of the difference.
- (5) Subsections (1) and (2) do not apply if the AFRC considers, in the circumstances of the case, that— (*Amended 41 of 2021 s. 95*)
 - (a) it is inappropriate or unnecessary that those subsections should apply; or
 - (b) the delay involved in complying with those subsections would not be—
 - (i) in the interest of the investing public; or
 - (ii) in the public interest.

(Added 3 of 2019 s. 73. Amended 41 of 2021 s. 95)

60D. AFRC may specify forms

(Amended 41 of 2021 s. 96)

- (1) The AFRC may specify— (*Amended 41 of 2021 s. 96*)
 - (a) the form of any document required under this Ordinance to be in the specified form; and
 - (b) the form of any other document required for the purposes of this Ordinance that the AFRC considers appropriate.
- (2) A form specified under this section must be—
 - (a) completed in accordance with the directions and instructions that are specified in the form;
 - (b) accompanied by the documents that are specified in the form; and

- (c) if the completed form is required to be provided to the AFRC or any other person, so provided in the way, if any, specified in the form.

(Added 3 of 2019 s. 73. Amended 41 of 2021 s. 96)

61. Amendment of Schedules

- (1) The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend Schedule 1, 1A or 3B.
- (1A) The Legislative Council may, by resolution, amend Schedule 3A. *(Added 3 of 2019 s. 74)*
- (2) The Chief Executive in Council may, by notice published in the Gazette, amend Schedule 2, 4, 4A, 5, 6 or 7.

(Amended 3 of 2019 s. 74)

Part 6

(Omitted as spent—E.R. 2 of 2014)

62-86. *(Omitted as spent—E.R. 2 of 2014)*

Part 7

(Repealed 41 of 2021 s. 97)

Division 1—*(Repealed 41 of 2021 s. 97)*

87. *(Repealed 41 of 2021 s. 97)*

Division 2—*(Repealed 41 of 2021 s. 97)*

88-91. *(Repealed 41 of 2021 s. 97)*

Division 3—*(Repealed 41 of 2021 s. 97)*

92-93. *(Repealed 41 of 2021 s. 97)*

Part 8

2021 Amending Ordinance—Regulations for Transitional and Saving Provisions and Consequential Amendments

(Part 8 added 41 of 2021 s. 98)

94. 2021 Amending Ordinance—regulations for transitional and saving provisions and consequential amendments

- (1) The Secretary may by regulation make transitional and saving provisions consequent on the enactment of the 2021 Amending Ordinance.
- (2) Without limiting subsection (1), the regulations may in particular provide for—
 - (a) the application of this Ordinance, or the PA Ordinance, as amended by the 2021 Amending Ordinance;
 - (b) the continued application of a provision of the pre-amended Ordinance or of the pre-amended PAO for a period, or until the happening of an event, specified in the regulations; or
 - (c) the application of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1) in addition to the regulations.
- (3) Without limiting subsections (1) and (2), the regulations may include matters relating to—
 - (a) existing certified public accountants and existing practice units under the pre-amended PAO;
 - (b) existing PIE auditors under the pre-amended Ordinance;

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- (c) existing practising certificates issued to certified public accountants under the pre-amended PAO;
 - (d) pending applications—
 - (i) for the registration of practice units and the issue of practising certificates under the pre-amended PAO; and
 - (ii) for the registration of PIE auditors under the pre-amended Ordinance;
 - (e) ongoing practice reviews carried out under the pre-amended PAO;
 - (f) complaints made under the pre-amended PAO;
 - (g) appeals on disciplinary sanction decisions; and
 - (h) the obtaining of information from the HKICPA for the purposes of paragraphs (a), (b), (c), (d), (e), (f) and (g).
- (4) For the purposes of subsection (2)(b), in relation to the provisions that continue to apply because of the regulations—
- (a) different periods may be specified for different provisions; and
 - (b) different events may be specified for different provisions.
- (5) Further, the Secretary may by regulation make consequential or related amendments to any enactment as are necessary consequent on the enactment of the 2021 Amending Ordinance.
- (6) For the purposes of subsection (5), the regulations may include transitional and saving provisions relating to the consequential or related amendments.
- (7) The regulations may provide for any provision of the regulations to take effect on a date earlier than the date of publication of the regulations (*publication date*) but

not earlier than the day on which section 98 of the 2021 Amending Ordinance comes into operation*.

- (8) To the extent to which a provision of the regulations takes effect on a date earlier than the publication date, the provision does not operate so as—
- (a) to affect, in a way prejudicial to any person (other than the Government or a public body), the rights of that person before the publication date; or
 - (b) to impose liabilities on a person (other than the Government or a public body) in respect of anything done, or omitted to be done, before the publication date.

- (9) In this section—

pre-amended Ordinance (《原有本條例》) means this Ordinance as in force immediately before the 2021 Ordinance commencement date;

pre-amended PAO (《原有專業會計師條例》) means the PA Ordinance as in force immediately before the 2021 Ordinance commencement date;

regulations (《規例》) means regulations made under this section;

Secretary (局長) means the Secretary for Financial Services and the Treasury.

Editorial Note:

* Operation date: 4 July 2022.

Schedule 1

[ss. 2, 5 & 61]

Definitions of *Relevant Financial Report* and *Relevant Requirement*

(Format changes—E.R. 2 of 2020)

Part 1

In this Ordinance (except sections 5(2) and 50 of this Ordinance)—

relevant financial report (有關財務報告)—

- (a) in relation to a listed corporation, means—
 - (i) a balance sheet of the corporation, together with any accounts annexed to it for the purposes of section 129C(1) of the relevant Ordinance, a copy of which was sent under section 129G of that Ordinance to a person entitled to be sent the copy;
 - (ia) a copy of the financial statements of the corporation, which was sent under section 430 of the Companies Ordinance (Cap. 622) to a member;
(Added 28 of 2012 ss. 912 & 920)
 - (ii) the accounts of the corporation, a certified copy of which was delivered to the Registrar of Companies for registration under section 336 of the relevant Ordinance, or under section 789 of the Companies Ordinance (Cap. 622);
 - (iii) a summary financial report of the corporation, a copy of which was sent to a person entitled to be sent the copy in compliance with section 141CA

- of the relevant Ordinance, or to a member in accordance with section 441 of the Companies Ordinance (Cap. 622) or in compliance with section 444 of that Ordinance;
- (iv) a set of financial statements of the corporation—
- (A) providing information on the results of the operations or cash flows of the corporation in a period of at least 3 months;
 - (B) providing information on the state of affairs of the corporation as at the end of that period; and
 - (C) issued, circulated, published or distributed for the purposes of the Listing Rules; or
- (v) a specified report required for a listing document issued by or on behalf of the corporation; (*Amended 28 of 2012 ss. 912 & 920*)
- (b) in relation to a listed collective investment scheme, means—
- (i) a set of financial statements of the scheme—
 - (A) providing information on the results of the operations or cash flows of the scheme in a period of at least 3 months;
 - (B) providing information on the state of affairs of the scheme as at the end of that period; and
 - (C) issued, circulated, published or distributed for the purposes of the relevant code or the Listing Rules; or
 - (ii) a specified report required for a listing document issued by or on behalf of the scheme; (*Amended 3 of 2019 s. 76*)

relevant requirement (有關規定)—

- (a) in relation to a relevant financial report of a listed corporation, means an accounting requirement as to the matters or information to be included in the report, as provided in—
- (i) the relevant Ordinance or the Companies Ordinance (Cap. 622), as in force at the material time; (*Amended 28 of 2012 ss. 912 & 920*)
 - (ii) the standards of accounting practices issued or specified, or deemed to have been issued or specified, under section 18A of the PA Ordinance, as in force at the material time; (*Amended 41 of 2021 s. 99*)
 - (iii) the International Financial Reporting Standards issued by the International Accounting Standards Board, as in force at the material time;
 - (iv) the Listing Rules; or
 - (v) any generally acceptable accounting principles allowed for usage under the Listing Rules;
- (b) in relation to a relevant financial report of a listed collective investment scheme, means an accounting requirement as to the matters or information to be included in the report, as provided in—
- (i) the standards of accounting practices issued or specified, or deemed to have been issued or specified, under section 18A of the PA Ordinance, as in force at the material time; (*Amended 41 of 2021 s. 99*)
 - (ii) the International Financial Reporting Standards issued by the International Accounting Standards Board, as in force at the material time;

- (iii) the Listing Rules;
- (iv) any generally acceptable accounting principles allowed for usage under the Listing Rules; or
- (v) the relevant code. (*Amended 3 of 2019 s. 76*)

Part 2

In sections 5(2) and 50 of this Ordinance—

relevant financial report (有關財務報告), in relation to a listed corporation, means—

- (a) a balance sheet of the corporation, together with any accounts annexed to it for the purposes of section 129C(1) of the relevant Ordinance, a copy of which was sent under section 129G of that Ordinance to a person entitled to be sent the copy;
- (ab) a copy of the financial statements of the corporation, which was sent under section 430 of the Companies Ordinance (Cap. 622) to a member; (*Added 28 of 2012 ss. 912 & 920*)
- (b) a summary financial report of the corporation, a copy of which was sent to a person entitled to be sent the copy in compliance with section 141CA of the relevant Ordinance, or to a member in accordance with section 441 of the Companies Ordinance (Cap. 622) or in compliance with section 444 of that Ordinance; or
- (c) a specified report required for a prospectus issued by or on behalf of the corporation; (*Amended 28 of 2012 ss. 912 & 920; 3 of 2019 s. 76*)

relevant requirement (有關規定), in relation to a relevant financial report of a listed corporation, means an accounting requirement as to the matters or information to be included in the report, as provided in the relevant Ordinance or the Companies Ordinance (Cap. 622), as in force at the material time. (*Amended 28 of 2012 ss. 912 & 920*)

Schedule 1A

[ss. 3A & 61 & Sch. 7]

PIE Engagements and Non-PIE Engagements

Part 1

PIE Engagements

1. The preparation of an auditor's report in relation to the following financial statements or accounts of a PIE—
 - (a) if the PIE is a listed corporation (equity)—
 - (i) the financial statements required to be prepared under section 379 of the Companies Ordinance (Cap. 622); or
 - (ii) the annual accounts required to be prepared under the Listing Rules; or
 - (b) if the PIE is a listed collective investment scheme—
the annual accounts required to be prepared under the relevant code or the Listing Rules.

2. The preparation of a specified report required to be included in—
 - (a) a listing document of a corporation seeking to be listed for the listing of its shares or stocks;
 - (b) a listing document of a listed corporation for the listing of its shares or stocks; or
 - (c) a listing document of—
 - (i) a collective investment scheme seeking to be listed; or

(ii) a listed collective investment scheme.

3. The preparation of an accountant's report required to be included in a circular issued by or on behalf of a PIE under the Listing Rules for the purpose of—
- (a) a reverse takeover within the meaning of the Listing Rules; or
 - (b) a very substantial acquisition within the meaning of the Listing Rules.

Part 2

Non-PIE Engagements

1. The preparation of an auditor's report in relation to the following financial statements or accounts of a non-PIE—
- (a) the financial statements required to be prepared under section 379 of the Companies Ordinance (Cap. 622); or
 - (b) the annual accounts required to be prepared under the Listing Rules.
2. The preparation of a specified report required to be included in—
- (a) a listing document of a corporation seeking to be listed for the listing of its securities (other than shares and stocks); or
 - (b) a listing document of a listed corporation for the listing of its securities (other than shares and stocks).

(Schedule 1A added 3 of 2019 s. 77)

Schedule 2

[ss. 7, 10B & 61 & Schs. 3A
& 4]

(Amended 41 of 2021 s. 100)

Accounting and Financial Reporting Council

(Amended 41 of 2021 s. 100)

Part 1

Interpretation

1. Interpretation

(1) In this Schedule—

AFRC member (會財局成員) means a member of the AFRC appointed under section 7; *(Added 41 of 2021 s. 100)*

Chairperson (主席) means the chairperson of the AFRC; *(Amended 41 of 2021 s. 100)*

Chief Executive Officer (行政總裁) means the chief executive officer of the AFRC; *(Amended 41 of 2021 s. 100)*

Deputy Chairperson (副主席) means the deputy chairperson of the AFRC. *(Amended 41 of 2021 s. 100)*

(Amended 41 of 2021 s. 100)

(2) In this Schedule, a reference to a person being unable to perform the person's functions is a reference to the person being unable to do so due to illness, absence from Hong Kong or any other reason.

Part 2

Office of AFRC Members

(Amended 41 of 2021 s. 100)

2. Appointment of Deputy Chairperson

The Chief Executive may appoint an AFRC member (other than the Chairperson or the Chief Executive Officer) to be the Deputy Chairperson.

(Amended 41 of 2021 s. 100)

3. Functions of AFRC members

(Amended 41 of 2021 s. 100)

An AFRC member has the functions assigned to the member by the AFRC.

(Amended 41 of 2021 s. 100)

4. Terms and conditions of office of AFRC members

(Amended 41 of 2021 s. 100)

- (1) The Chief Executive is to determine the terms and conditions of the office of an AFRC member.
- (2) The remuneration, allowances and expenses of an AFRC member, as determined by the Chief Executive, are to be paid out of the funds of the AFRC.

(Amended 41 of 2021 s. 100)

5. Resignation of AFRC members

(Amended 41 of 2021 s. 100)

- (1) An AFRC member may at any time resign from office by written notice to the Chief Executive. *(Amended 41 of 2021 s. 100)*

- (2) Unless it is otherwise provided in the terms and conditions referred to in section 4(1) of this Schedule, a notice of resignation takes effect on—
- (a) the day on which the notice is received by the Chief Executive; or
 - (b) if a later day is specified in the notice—that later day.

6. Removal of AFRC members

(Amended 41 of 2021 s. 100)

- (1) The Chief Executive may remove an AFRC member from office if the Chief Executive is satisfied that the member—
(Amended 41 of 2021 s. 100)
- (a) has ceased to be a non-practitioner;
 - (b) has become a public officer;
 - (c) has become bankrupt;
 - (d) is convicted in Hong Kong of an offence that is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in Hong Kong of an offence that, if committed in Hong Kong, would be an offence so punishable; or
 - (e) is otherwise unable or unfit to perform the functions of an AFRC member. *(Amended 41 of 2021 s. 100)*
- (2) The Chief Executive must publish in the Gazette a notice of each removal under subsection (1).

Part 3

Acting Arrangements

7. Acting Chairperson

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- (1) If the office of Chairperson is vacant or the Chairperson is unable to perform the Chairperson's functions, the Deputy Chairperson must act as Chairperson.
 - (2) Whether or not the Deputy Chairperson has been appointed, the Chairperson may—
 - (a) designate an AFRC member to act as Chairperson for any period during which both the Chairperson and the Deputy Chairperson are unable to act as Chairperson; and
 - (b) at any time revoke the designation.
 - (3) Subsection (4) applies if—
 - (a) the office of Deputy Chairperson is vacant;
 - (b) the Deputy Chairperson appointed is unable to act as Chairperson;
 - (c) no designation under subsection (2)(a) is in force; or
 - (d) the AFRC member designated under subsection (2)(a) is unable to act as Chairperson.
 - (4) The Financial Secretary may—
 - (a) designate an AFRC member to act as Chairperson for any period during which the Chairperson is unable to perform the Chairperson's functions; and
 - (b) at any time revoke the designation.
 - (5) A designation under subsection (4)(a) ceases to have effect when the earliest of the following events occurs—
 - (a) the designation is revoked by the Financial Secretary;
 - (b) the designated AFRC member is unable to act as Chairperson;

- (c) if the designation is made in the circumstances mentioned in subsection (3)(a)—an appointment is made under section 2 of this Schedule;
 - (d) if the designation is made in the circumstances mentioned in subsection (3)(b)—the Deputy Chairperson is able to act as Chairperson;
 - (e) if the designation is made in the circumstances mentioned in subsection (3)(c)—a designation is made under subsection (2)(a);
 - (f) if the designation is made in the circumstances mentioned in subsection (3)(d)—the designated AFRC member is able to act as Chairperson.
- (6) An AFRC member acting as Chairperson under this section is to be regarded for all purposes to be the Chairperson.
- (7) Despite subsection (6), an executive director or non-executive director of the AFRC who acts as Chairperson under this section does not cease to be regarded as such a director only because the director is acting as Chairperson.

(Amended 41 of 2021 s. 100)

8. Acting Chief Executive Officer

- (1) The Chief Executive Officer may—
- (a) designate an executive director of the AFRC to act as Chief Executive Officer for any period during which the Chief Executive Officer is unable to perform the Officer's functions; and
 - (b) at any time revoke the designation.
- (2) Subsection (3) applies if—
- (a) no designation under subsection (1)(a) is in force; or

- (b) the executive director designated under subsection (1)(a) is unable to act as Chief Executive Officer.
- (3) The Financial Secretary may—
 - (a) designate an executive director of the AFRC to act as Chief Executive Officer for any period during which the Chief Executive Officer is unable to perform the Officer's functions; and
 - (b) at any time revoke the designation.
- (4) A designation under subsection (3)(a) ceases to have effect when the earliest of the following events occurs—
 - (a) the designation is revoked by the Financial Secretary;
 - (b) the designated executive director is unable to act as Chief Executive Officer;
 - (c) the Chief Executive Officer is able to perform the Officer's functions.
- (5) An executive director of the AFRC acting as Chief Executive Officer under this section is to be regarded for all purposes to be the Chief Executive Officer.

(Amended 41 of 2021 s. 100)

Part 4

Meetings of AFRC

(Amended 41 of 2021 s. 100)

9. General procedures for meetings

- (1) Meetings of the AFRC are to be held as often as necessary to enable the AFRC to perform its functions.
- (2) A meeting of the AFRC may be convened by the Chairperson.

- (3) The Chairperson must convene a meeting of the AFRC on being given a notice for that purpose by 2 or more other AFRC members.
- (4) The procedures for convening meetings of the AFRC and for the conduct of business at those meetings are, subject to this Ordinance, to be determined by the AFRC.

(Amended 41 of 2021 s. 100)

10. Quorum

- (1) The quorum for a meeting of the AFRC is constituted by—
(Amended 41 of 2021 s. 100)
 - (a) one-third of the executive directors of the AFRC; and
 - (b) one-third of the non-executive directors of the AFRC.
- (2) For the purposes of subsection (1)—
 - (a) if the number that is equal to one-third of the executive directors or non-executive directors of the AFRC is not a whole number, that number is to be rounded up to the nearest whole number;
 - (b) an executive director of the AFRC who acts as Chairperson is only counted as an executive director of the AFRC; and
 - (c) a non-executive director of the AFRC who acts as Chairperson is only counted as a non-executive director of the AFRC.
- (3) If an AFRC member is required under section 53(5) or (6)—
(Amended 41 of 2021 s. 100)
 - (a) not to be present during any deliberation of the AFRC;
 - (b) not to take part in any decision of the AFRC; or
 - (c) not to take part in the making of a determination by the AFRC,

the member is not to be counted for the purpose of forming a quorum at the part of the meeting of the AFRC held for such deliberation, decision or determination.

- (4) An AFRC member who participates in a meeting of the AFRC by telephone, video conferencing or other electronic means is to be regarded as being present at the meeting if—
(Amended 41 of 2021 s. 100)
- (a) that member is able to hear the other AFRC members who are physically present at the meeting; and
 - (b) the AFRC members who are physically present at the meeting are able to hear that member.

(Amended 41 of 2021 s. 100)

11. Presiding member at meetings

A meeting of the AFRC is to be presided over by the first of the following persons (in descending order of priority) who is able to preside at the meeting— *(Amended 41 of 2021 s. 100)*

- (a) the Chairperson;
- (b) the Deputy Chairperson;
- (c) the AFRC member designated under section 7(2)(a) of this Schedule;
- (d) the AFRC member designated under section 7(4)(a) of this Schedule; or
- (e) an AFRC member who is chosen, for this purpose, by other AFRC members present at the meeting.

(Amended 41 of 2021 s. 100)

12. Voting at meetings

- (1) Each AFRC member present at a meeting of the AFRC has 1 vote.

- (2) Every question to be decided at a meeting of the AFRC must be determined by a majority of the votes of its members present.
- (3) If the votes on a question are equally divided, the AFRC member who presides at the meeting has, subject to subsection (4), a casting vote.
- (4) The AFRC member who presides at a meeting of the AFRC must not exercise a casting vote on a question at the meeting until after the member has consulted the Financial Secretary on the question.

(Amended 41 of 2021 s. 100)

13. Circulation of papers and written resolution

- (1) The AFRC may transact any of its business by circulation of papers.
- (2) A resolution that meets the requirements set out in subsection (3) is as valid as if it had been passed at a meeting of the AFRC.
- (3) The requirements are—
 - (a) the resolution is in writing;
 - (b) the resolution is signed by all the AFRC members who are, when the resolution is made available for signature, present in Hong Kong and capable of signing the resolution; and
 - (c) the resolution is signed by—
 - (i) at least one-third of the executive directors of the AFRC; and
 - (ii) at least one-third of the non-executive directors of the AFRC.
- (4) For the purposes of subsection (3)—

- (a) a resolution may be—
 - (i) in the form of one document; or
 - (ii) in the form of more than one document, each of which is in the same form; and
 - (b) if the number that is equal to one-third of the executive directors or non-executive directors of the AFRC is not a whole number, that number is to be rounded up to the nearest whole number.
- (5) If a resolution is in the form of more than one document, the requirements under subsection (3)(b) and (c) are to be regarded as having been met if the documents together bear the signatures of the numbers of AFRC members as specified in that subsection.
- (6) For the purposes of this section—
- (a) a resolution is regarded as having been signed by an AFRC member if a fax or electronic transmission of the resolution bears the signature of the member; and
 - (b) a resolution is regarded as made on the day on which the resolution is signed by the last person signing as an AFRC member.

(Amended 41 of 2021 s. 100)

Part 4A

Advisory Committee

(Part 4A added 41 of 2021 s. 100)

13A. Composition of Advisory Committee

- (1) The Advisory Committee is to consist of the following members—

- (a) the chairperson of the AFRC;
 - (b) the chief executive officer of the AFRC;
 - (c) not more than 2 executive directors of the AFRC (other than the chief executive officer), as appointed by the AFRC; and
 - (d) at least 8 but not more than 12 other persons, as appointed by the Financial Secretary after consulting the AFRC.
- (2) To avoid doubt, if a person ceases to be—
- (a) the chairperson of the AFRC;
 - (b) the chief executive officer of the AFRC; or
 - (c) for a person appointed by the AFRC under subsection (1)(c)—an executive director of the AFRC,
- the person ceases to be a member of the Advisory Committee.

13B. Resignation of members

- (1) A member of the Advisory Committee may at any time resign from office by written notice to the Financial Secretary or (for a member appointed under section 13A(1)(c) of this Schedule) to the AFRC.
- (2) A notice of resignation takes effect on—
- (a) the day on which the notice is received by the Financial Secretary or the AFRC (as appropriate); or
 - (b) if a later day is specified in the notice—that later day.

13C. Removal of members

The Financial Secretary may remove from office a member of the Advisory Committee appointed under section 13A(1)(c) or (d) of this Schedule by written notice to the member.

13D. Meetings of Advisory Committee

- (1) A meeting of the Advisory Committee may be convened by—
 - (a) the chairperson of the AFRC;
 - (b) the chief executive officer of the AFRC; or
 - (c) any other 3 members of the Advisory Committee.
- (2) At a meeting of the Advisory Committee—
 - (a) if the chairperson of the AFRC is present, the chairperson is to preside over the meeting; or
 - (b) if the chairperson of the AFRC is not present, the members of the Advisory Committee present are to choose one among themselves to preside over the meeting.

Part 5

Miscellaneous

14. Committees

- (1) The AFRC may establish one or more committees to assist it in a matter with which it is concerned.
- (2) The AFRC— (*Amended 41 of 2021 s. 100*)
 - (a) must appoint an AFRC member to be the chairperson of a committee; and
 - (b) may, subject to subsection (3), appoint other members of a committee, whether or not any of them is also an AFRC member.
- (3) Among the members of a committee, the number of AFRC members must exceed the number of non-AFRC members.

- (4) The AFRC may refer a matter with which it is concerned to a committee for consideration, inquiry or management.
- (5) The AFRC may— *(Amended 41 of 2021 s. 100)*
 - (a) revoke an appointment under subsection (2); or
 - (b) withdraw a reference under subsection (4).
- (6) The procedures for convening meetings of a committee and for the conduct of business at those meetings are, subject to any direction of the AFRC, to be determined by the committee.

(Amended 41 of 2021 s. 100)

15. Seal

- (1) The AFRC must have a seal the affixing of which must be authenticated by— *(Amended 41 of 2021 s. 100)*
 - (a) the signature of the Chairperson or the Deputy Chairperson; or
 - (b) the signature of another AFRC member authorized to sign on behalf of the AFRC.
- (2) A document purporting to be a document duly executed under the seal of the AFRC is to be received in evidence without further proof and is, unless the contrary is proved, to be regarded as a document so executed on being received in evidence.

(Amended 41 of 2021 s. 100)

16. Organization of administration etc.

The AFRC must organize and regulate its administration, procedure and business in a way that it considers will, subject to the requirements of this Ordinance, best ensure the performance of its functions.

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(Amended 41 of 2021 s. 100)

(Schedule 2 replaced 3 of 2019 s. 78)

Schedule 3

(Repealed 3 of 2019 s. 79)

Schedule 3A

[ss. 11 & 61]

Non-delegable Functions of AFRC

(Amended 41 of 2021 s. 101)

1. The following functions of the AFRC are specified for the purposes of section 11(2)— *(Amended 41 of 2021 s. 101)*
 - (a) to make subsidiary legislation under this Ordinance or any other Ordinance;
 - (b) to borrow money under section 10(2)(e);
 - (c) to publish or otherwise make available, under section 10(2)(h), materials indicating to the public any matter relating or incidental to the performance by the AFRC of any of its functions; *(Amended 41 of 2021 s. 101)*
 - (d) to issue guidelines under section 13;
 - (e) to submit, under section 17(3), estimates of income and expenditure of the AFRC for approval by the Financial Secretary; *(Amended 41 of 2021 s. 101)*
 - (f) to cause to be prepared a statement of accounts of the AFRC under section 18(2); *(Amended 41 of 2021 s. 101)*
 - (g) to submit to the Financial Secretary under section 20(1) the documents referred to in that section;
 - (ga) to appoint a person to be a CPA inspector under section 20ZZA(1)(b); *(Added 41 of 2021 s. 101)*
 - (gb) to appoint a person to be a CPA investigator under section 20ZZG(1)(b); *(Added 41 of 2021 s. 101)*

- (h) to appoint a person to be an FR inspector under section 21A(1)(b); *(Amended L.N. 66 of 2022)*
- (i) to appoint a person to be an FR investigator under section 22A(1)(b); *(Amended L.N. 66 of 2022)*
- (j) to specify, under section 37ZD(2), the day on which a specified decision is to take effect;
- (k) to consult, under section 50D(1), the Financial Secretary with a view to recommending to the Chief Executive in Council that the rate or amount of a levy be reduced, and to recommend, under section 50D(3), to the Chief Executive in Council that the rate or amount of a levy be reduced;
- (ka) to appoint a person to be a member of the Advisory Committee under section 13A(1)(c) of Schedule 2; *(Added 41 of 2021 s. 101)*
- (l) to establish a committee under section 14(1) of Schedule 2;
- (m) to appoint a person to be the chairperson or a member of a committee under section 14(2) of Schedule 2;
- (n) to refer a matter to a committee under section 14(4) of Schedule 2;
- (o) to revoke the appointment of the chairperson or a member of a committee, or to withdraw a reference from a committee, under section 14(5) of Schedule 2.

(Schedule 3A added 3 of 2019 s. 80)

Schedule 3B

[ss. 20AAD, 20AAI, 20AAS,
20AAX, 20AAZM, 20AAZR,
20AAZZJ, 20G, 20K, 20ZE,
20ZK, 20ZY & 61]
(Amended 41 of 2021 s. 102)

Fees

Column 1	Column 2	Column 3
Item	Particulars	Fees \$
1A.	Issue of a practising certificate under section 20AAD (<i>Added 41 of 2021 s. 102</i>)	0
1AB.	Issue of a practising certificate on renewal under section 20AAI (<i>Added 41 of 2021 s. 102</i>)	0
1AC.	Application for registration of a firm name or firm under section 20AAS (<i>Added 41 of 2021 s. 102</i>)	0
1AD.	Application for renewal of registration of a firm name or firm under section 20AAX (<i>Added 41 of 2021 s. 102</i>)	0

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Column 1	Column 2	Column 3
Item	Particulars	Fees \$
1AE.	Application for registration as a corporate practice under section 20AAZM <i>(Added 41 of 2021 s. 102)</i>	0
1AF.	Application for renewal of registration as a corporate practice under section 20AAZR <i>(Added 41 of 2021 s. 102)</i>	0
1AG.	Provision of a copy of an entry in, or an extract of, the AFRC register under section 20AAZZJ(2)(a) <i>(Added 41 of 2021 s. 102)</i>	50 per copy
1AH.	Provision of a certified true copy of an entry in, or an extract of, the AFRC register under section 20AAZZJ(2)(b) <i>(Added 41 of 2021 s. 102)</i>	150 per copy
1.	Application for registration as a PIE auditor under section 20G	250
2.	Application for renewal of registration as a PIE auditor under section 20K	200
3.	Application for grant of approval-in-principle for recognition as a PIE auditor under section 20ZE	250
4.	Application for renewal of recognition as a PIE auditor under section 20ZK	200

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Schedule 3B

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Column 1	Column 2	Column 3
Item	Particulars	Fees \$
5.	Provision of a copy of an entry in, or an extract of, the PIE auditors register under section 20ZY(2)(a)	50 per copy
6.	Provision of a certified true copy of an entry in, or an extract of, the PIE auditors register under section 20ZY(2)(b)	150 per copy

(Schedule 3B added 3 of 2019 s. 80)

Schedule 4

[ss. 22 & 61]

Provisions Relating to Investigation Board and its Members

(Format changes—E.R. 2 of 2020)

1. Appointment of members

- (1) A member appointed to the Investigation Board under section 22(2)(b) of this Ordinance is to be appointed for a term fixed by the AFRC at the time of the member's appointment.
- (2) On the expiry of the period of appointment or reappointment of a member of the Investigation Board, the member is eligible for reappointment.
- (3) All matters relating to the terms and conditions of the appointment of a member of the Investigation Board are to be determined by the AFRC.
- (4) A member of the Investigation Board may resign from office by giving notice in writing to the AFRC. A notice of resignation takes effect on the date specified in the notice or, if no date is specified, on the date of receipt by the AFRC of the notice.

(Amended 3 of 2019 s. 81; 41 of 2021 s. 105)

2. Temporary member

- (1) If, because of absence from Hong Kong or any other reason, a member of the Investigation Board, other than the chairperson, is unable to perform the member's functions, the AFRC may appoint another person to be a temporary

member in the member's place during the member's absence or incapacity. (*Amended 3 of 2019 s. 81; 41 of 2021 s. 105*)

- (2) If a person is appointed as a temporary member of the Investigation Board, the person may perform all the functions of the member in whose place the person is appointed.

3. Removal of members

- (1) If the AFRC is satisfied that a member of the Investigation Board appointed under section 22(2)(b) of this Ordinance— (*Amended 3 of 2019 s. 81; 41 of 2021 s. 105*)
- (a) has become bankrupt;
 - (b) (*Repealed 3 of 2019 s. 81*)
 - (c) is convicted in Hong Kong of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in Hong Kong of an offence that, if committed in Hong Kong, would be an offence so punishable; or
 - (d) is otherwise unable or unfit to perform the functions of a member of the Investigation Board,
- the AFRC may declare the member's office to be vacant, and upon such declaration the office becomes vacant.
- (2) The AFRC must give notice of a declaration under subsection (1) in such manner as it thinks fit.
- (3) Subsection (4) applies if notice of a declaration is given under subsection (2) otherwise than by notice published in the Gazette.
- (4) The AFRC must, as soon as practicable after having given notice under subsection (2), give another notice of the declaration by notice published in the Gazette.

(Amended 3 of 2019 s. 81; 41 of 2021 s. 105)

4. Meetings and proceedings, etc. of Investigation Board

- (1) The chairperson of the Investigation Board must convene the meetings of the Board as the chairperson considers necessary for the Board to perform its functions. *(Amended 3 of 2019 s. 81)*
- (1A) A meeting of the Investigation Board is to be presided over by the first of the following persons (in descending order of priority) who is able to preside at the meeting—
 - (a) the chief executive officer of the AFRC;
 - (b) an executive director of the AFRC designated under section 8(1)(a) of Schedule 2;
 - (c) an executive director of the AFRC designated under section 8(3)(a) of Schedule 2; or
 - (d) a member of the Board who is chosen, for this purpose, by other members of the Board present at the meeting. *(Added 3 of 2019 s. 81. Amended 41 of 2021 s. 105)*
- (2) The quorum for a meeting of the Investigation Board is 2 members of the Board or one half of the members of the Board, whichever is the greater.
- (3) If a member of the Investigation Board is required under section 53(5) of this Ordinance not to be present during any deliberation of, or not to take part in any decision of, the Board, the member is not to be counted for the purpose of forming a quorum at such part of a meeting of the Board that is held for such deliberation or decision. *(Amended 3 of 2019 s. 81)*
- (4) The Investigation Board may transact any of its business by circulation of papers.

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- (5) The Investigation Board may, subject to this Ordinance and any direction of the AFRC, determine— (*Amended 3 of 2019 s. 81; 41 of 2021 s. 105*)
- (a) the procedure for convening meetings of the Board and for the conduct of business at those meetings; and
 - (b) the procedure in the transaction of business of the Board by circulation of papers.
-

Schedule 4A

[ss. 37N, 37O, 37U, 37ZJ &
61]

Provisions Relating to Tribunal

1. Interpretation

In this Schedule—

chairperson (主席) means the chairperson of the Tribunal;

ordinary member (普通成員) means a member of the Tribunal other than the chairperson;

panel member (委員) means a member of the Tribunal panel appointed under section 3 of this Schedule.

2. Appointment of chairperson

(1) The chairperson must be appointed by the Chief Executive.

(2) The chairperson—

(a) must be—

(i) a former Justice of Appeal of the Court of Appeal;

(ii) a former judge, a former recorder or a former deputy judge of the Court of First Instance; or

(iii) a person who is eligible for appointment as a judge of the High Court under section 9 of the High Court Ordinance (Cap. 4); and

(b) must not be a public officer.

(3) The chairperson—

(a) may be appointed—

(i) for a term not exceeding 3 years; or

- (ii) for a specified review; and
- (b) may be reappointed from time to time.

3. Appointment of Tribunal panel

- (1) The Chief Executive must appoint persons to a Tribunal panel comprising the number of members the Chief Executive considers appropriate.
- (2) A panel member must not be a public officer.
- (3) A panel member is appointed for a period the Chief Executive considers appropriate, and may be reappointed from time to time.

4. Resignation and removal of chairperson and panel members

- (1) The chairperson or a panel member may at any time resign from office by written notice to the Chief Executive.
- (2) A notice of resignation takes effect on—
 - (a) the day on which the notice is received by the Chief Executive; or
 - (b) if a later day is specified in the notice—that later day.
- (3) The Chief Executive may by written notice remove the chairperson or a panel member from office on the ground of incapacity, bankruptcy, neglect of duty, conflict of interest or misconduct.

5. Appointment and resignation of ordinary members

- (1) For determining a review, the Secretary for Financial Services and the Treasury must, on the recommendation of the chairperson, appoint 2 panel members as ordinary members for the review.

- (2) An ordinary member appointed for a specified review may, subject to other provisions of this Ordinance, be appointed for any other review.
- (3) An ordinary member may at any time resign from office by written notice to the Secretary for Financial Services and the Treasury.
- (4) A notice of resignation takes effect on—
 - (a) the day on which the notice is received by the Secretary for Financial Services and the Treasury; or
 - (b) if a later day is specified in the notice—that later day.
- (5) If an ordinary member ceases to be a panel member, he or she ceases to be an ordinary member.

6. Chairperson and ordinary members entitled to be paid for services

- (1) The chairperson or an ordinary member is entitled to be paid, as a fee for services, an amount the Secretary for Financial Services and the Treasury considers appropriate.
- (2) An amount payable under subsection (1) is a charge on the general revenue.

7. Acting appointments

- (1) Subsection (2) applies if the chairperson is prevented by illness, absence from Hong Kong or any other reason from performing the functions of the chairperson.
- (2) The Chief Executive may appoint a person who is qualified for appointment as the chairperson under section 2(2) of this Schedule to act as chairperson, and perform all the functions of the chairperson (including acting as sole member of the Tribunal under section 12 of this Schedule), for any period

during which the chairperson is prevented from performing those functions.

- (3) Subsection (4) applies if an ordinary member is prevented by illness, absence from Hong Kong or any other reason from taking part in a particular review.
- (4) The Secretary for Financial Services and the Treasury may appoint another panel member to act as ordinary member, and take part in the particular review, for any period during which the ordinary member is prevented from so taking part.

8. Further provisions relating to chairperson and ordinary members

- (1) If, on the expiry of the term of appointment of the chairperson or an acting chairperson, a review has commenced but not yet been completed, the Chief Executive may authorize the person to continue to act as chairperson or acting chairperson for the purpose of completing the review.
- (2) If, during review proceedings, there is a change in the membership of the Tribunal, then—
 - (a) if all the parties to the review so consent, the proceedings may continue despite that change; or
 - (b) in the absence of such a consent, the proceedings must not continue but must begin over again.

9. Sittings

- (1) The chairperson must convene the sittings of the Tribunal that are necessary to determine a review.
- (2) The chairperson may, at any time after a review application has been made, give directions to the parties to the review concerning—

- (a) the procedural matters to be complied with by the parties; and
 - (b) the time within which the parties are required to comply with those matters.
- (3) Subject to section 12 of this Schedule, at any sitting of the Tribunal—
 - (a) the chairperson and 2 ordinary members must be present;
 - (b) the chairperson must preside;
 - (c) the order of proceedings must be determined by the Tribunal in the way most appropriate to the circumstances of the case;
 - (d) every question before the Tribunal (other than a question of law) must be determined by a majority of votes cast by the chairperson and the ordinary members; and
 - (e) a question of law before the Tribunal must be determined by the chairperson alone.
- (4) The parties to a review are, at any sitting of the Tribunal relating to the review, entitled to be heard—
 - (a) in person, or—
 - (i) for the decision authority that made the specified decision concerned or for a corporation—through an officer or employee of the authority or the corporation;
 - (ii) for a partnership—through a partner; or
 - (iii) for a sole proprietorship—through the owner; or
 - (b) through counsel or solicitor or, with the leave of the Tribunal, through any other person.
- (5) The chairperson must prepare, or cause to be prepared, a record of the proceedings at any sitting of the Tribunal, which

must contain the particulars relating to the proceedings the chairperson considers appropriate.

10. Preliminary conferences

- (1) At any time after a review application has been made, the chairperson may direct that a conference, to be attended by the parties to the review or their representatives and presided over by the chairperson, is to be held for—
 - (a) enabling the parties to prepare for the conduct of the review;
 - (b) assisting the Tribunal to determine issues for the purpose of the review; and
 - (c) generally securing the just, expeditious and economical conduct of the review.
- (2) The chairperson may give a direction under subsection (1) on his or her own initiative or on application by any of the parties to the review if—
 - (a) the chairperson considers it appropriate to do so after considering any materials submitted in relation to the review by any of the parties; and
 - (b) the parties agree to the giving of the direction.
- (3) The chairperson—
 - (a) may give any direction the chairperson considers necessary or desirable for securing the just, expeditious and economical conduct of the review; and
 - (b) must endeavour to secure that the parties to the review make all agreements that they reasonably ought to make in relation to the review.
- (4) After a conference has been held as directed under subsection (1), the chairperson must report to the Tribunal on the

matters relating to the conference the chairperson considers appropriate.

11. Consent orders

- (1) If, at any time after a review application has been made, the parties to the review consent to all the terms of an order that the Tribunal or chairperson may make under any provision of this Ordinance, the Tribunal or chairperson may make the order even though a requirement applicable to the making of the order has not been complied with.
- (2) An order made under subsection (1) is to be regarded for all purposes as an order made under the provision concerned in compliance with the requirements applicable to the making of the order.
- (3) In this section—
order (命令) includes any finding, determination and any other decision.

12. Chairperson as sole member of Tribunal

- (1) The chairperson may determine a review as the sole member of the Tribunal if the condition specified in subsection (2) is satisfied.
- (2) The condition is that, at any time after a review application has been made but before any sitting of the Tribunal is held to determine the review, the parties to the review—
 - (a) have agreed that the review may be determined by the chairperson as the sole member of the Tribunal; and
 - (b) have informed the Tribunal of the agreement by written notice.

- (3) The chairperson may also determine as the sole member of the Tribunal an application under section 37R for an extension of the time within which a review application may be made.
- (4) If subsection (1) or (3) applies, the Tribunal constituted by the chairperson as the sole member of the Tribunal is to be regarded for all purposes as the Tribunal constituted by the chairperson and 2 ordinary members.
- (5) After making a determination under subsection (1) or (3), the chairperson must report to the Tribunal on the determination and the reasons for the determination, and any other matter relating to the determination the chairperson considers appropriate.
- (6) Subsection (7) applies if there is an application under section 37R and—
 - (a) the chairperson cannot determine the application due to illness, absence from Hong Kong or any other reason; or
 - (b) the chairperson considers it improper or undesirable that he or she should determine the application.
- (7) The Chief Executive may appoint a person who is qualified for appointment as the chairperson under section 2(2) of this Schedule to determine the application in question as if the person were the chairperson duly appointed under this Ordinance, and the provisions of this Ordinance are to apply to the person accordingly.

13. Privileges and immunities

Except as otherwise provided in this Ordinance, the following persons have the same privileges and immunities in relation to a review as they would have if the review were civil proceedings before the Court of First Instance—

- (a) the Tribunal, chairperson and ordinary members; and

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- (b) the parties to, and any witness, counsel, solicitor or any other person involved in, the review.

(Schedule 4A added 3 of 2019 s. 82)

Schedule 5

[ss. 39 & 61]

Provisions Relating to Review Panel and its Members

(Format changes—E.R. 2 of 2020)

1. Tenure of members

- (1) A member of the Review Panel is to be appointed for a term not exceeding 3 years.
- (2) On the expiry of the period of appointment or reappointment of a member of the Review Panel, the member is eligible for reappointment. *(Amended 3 of 2019 s. 83)*
- (3) A member of the Review Panel may resign from office by giving notice in writing to the Chief Executive. A notice of resignation takes effect on the date specified in the notice or, if no date is specified, on the date of receipt by the Chief Executive of the notice.

2. Removal of members

- (1) If the Chief Executive is satisfied that a member of the Review Panel—
 - (a) has become bankrupt;
 - (b) *(Repealed 3 of 2019 s. 83)*
 - (c) is convicted in Hong Kong of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in Hong Kong of an offence that, if committed in Hong Kong, would be an offence so punishable; or

- (d) is otherwise unable or unfit to perform the functions of a member of the Review Panel,
- the Chief Executive may declare the member's office to be vacant, and upon such declaration the office becomes vacant.
- (2) The Chief Executive must give notice of a declaration under subsection (1) in such manner as the Chief Executive thinks fit.
- (3) Subsection (4) applies if notice of a declaration is given under subsection (2) otherwise than by notice published in the Gazette.
- (4) The Chief Executive must, as soon as practicable after having given notice under subsection (2), give another notice of the declaration by notice published in the Gazette.

(Amended 3 of 2019 s. 83)

Schedule 6

[ss. 41 & 61]

(Amended 3 of 2019 s. 84)

Provisions Relating to Review Committee and its Members

(Format changes—E.R. 2 of 2020)

1. Meetings and proceedings, etc. of Review Committee

- (1) The chairperson of a Review Committee must convene the meetings of the Committee as the chairperson considers necessary for the Committee to perform its functions.
(Amended 3 of 2019 s. 84)
- (2) The quorum for a meeting of a Review Committee is one half of the members of the Committee.
- (3) If a member of a Review Committee is required under section 53(5) of this Ordinance not to be present during any deliberation of, or not to take part in any decision of, the Committee, the member is not to be counted for the purpose of forming a quorum at such part of a meeting of the Committee that is held for such deliberation or decision.
(Amended 3 of 2019 s. 84)
- (4) A Review Committee may transact any of its business by circulation of papers.
- (5) A Review Committee may, subject to this Ordinance and any direction of the AFRC, determine— *(Amended 3 of 2019 s. 84; 41 of 2021 s. 103)*
 - (a) the procedure for convening meetings of the Committee and for the conduct of business at those meetings; and

- (b) the procedure in the transaction of business of the Committee by circulation of papers.

2. Resignation of members

- (1) A member of a Review Committee may resign from office by giving notice in writing to the AFRC. A notice of resignation takes effect on the date specified in the notice or, if no date is specified, on the date of receipt by the AFRC of the notice. *(Amended 41 of 2021 s. 103)*
- (2) If a member of a Review Committee ceases to be a member of the Review Panel, he or she ceases to be the member of the Committee.

(Amended 3 of 2019 s. 84)

3. AFRC may fill vacancy

(Amended 3 of 2019 s. 84; 41 of 2021 s. 103)

- (1) If a vacancy occurs among the members of a Review Committee by reason of death, resignation or otherwise, the AFRC may appoint— *(Amended 3 of 2019 s. 84; 41 of 2021 s. 103)*
 - (a) subject to paragraph (b), another member of the Review Panel; or
 - (b) in the case of a vacancy in the office of the chairperson of the Committee, another Panel Convenor appointed under section 39(2) of this Ordinance,
to fill the vacancy.
- (2) If the AFRC appoints a member of the Review Panel, or a Panel Convenor, under subsection (1) to fill a vacancy, the AFRC must notify the listed entity concerned in writing of the name of the member or Panel Convenor. *(Amended 41 of 2021 s. 103)*

(Amended 3 of 2019 s. 84)

4. Temporary chairperson or member

(Amended 3 of 2019 s. 84)

- (1) If, because of absence from Hong Kong or any other reason, the chairperson of a Review Committee is unable to perform the chairperson's functions, the AFRC may appoint, from amongst the Panel Convenors appointed under section 39(2) of this Ordinance, a temporary chairperson to act in the chairperson's place during the chairperson's absence or incapacity.
- (2) If, because of absence from Hong Kong or any other reason, a member of a Review Committee, other than the chairperson, is unable to perform the member's functions, the AFRC may appoint another member of the Review Panel to be a temporary member in the member's place during the member's absence or incapacity.
- (3) If a person is appointed as the temporary chairperson, or a temporary member, of a Review Committee, the person may perform all the functions of the chairperson, or member, in whose place the person is appointed.

(Amended 3 of 2019 s. 84; 41 of 2021 s. 103)

Schedule 7

[ss. 50A, 50B, 50C & 61]

Calculation of Levies

1. Levies payable by sellers and purchasers of securities

- (1) Subject to subsections (2) and (3), the levy payable for a sale and purchase of securities is—
 - (a) for the seller—0.00015% of the consideration for the sale; and
 - (b) for the purchaser—0.00015% of the consideration for the purchase.
- (2) No levy is payable for a sale and purchase of a stock option.
- (3) No levy is payable for a sale and purchase of securities by an exchange participant, if the exchange participant—
 - (a) holds a securities market maker permit in relation to the securities that is in force at the time of the sale or purchase; and
 - (b) makes the sale or purchase in the course of making a market for the securities.

- (4) In this section—

exchange participant (交易所參與者) has the meaning given by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571);

securities market maker permit (證券莊家執照) has the meaning given by section 2 of the Securities and Futures (Levy) Order (Cap. 571 sub. leg. Z).

2. Levies payable by PIEs

- (1) The levy payable by a PIE for a calendar year is 4.2% of the prepaid annual listing fee.
- (2) For the purposes of subsection (1), the prepaid annual listing fee is the annual listing fee that is payable by the PIE to the HKEC in advance in 1 instalment for the calendar year under the Listing Rules.
- (3) The levy payable by a PIE for a calendar year, as calculated in accordance with subsection (1), is not to be adjusted even if the annual listing fee payable by the PIE to the HKEC for the year is subsequently adjusted under the Listing Rules.

3. Levies payable by PIE auditors

- (1) Subject to subsection (2), the levy payable by a PIE auditor for a calendar year is the sum of—
 - (a) \$6,155 × N; and
 - (b) 0.147% of TR,where—

N = the number of PIEs for which the auditor is carrying out, as at 31 December of the preceding calendar year, an engagement specified in item 1 of Part 1 of Schedule 1A (*specified engagement*); and

TR = the total remuneration paid to the auditor, in the preceding calendar year, by the PIEs for which the auditor carried out specified engagements.
- (2) However, if N is 0, the levy payable by the PIE auditor for the calendar year is \$2,000.
- (3) For ascertaining N and TR, the AFRC may refer to—
(Amended 41 of 2021 s. 104)

- (a) the annual financial statements of the PIEs submitted to the HKEC under the Listing Rules; or
 - (b) any information or document provided by the PIE auditor to the AFRC under section 50C(2). (*Amended 41 of 2021 s. 104*)
- (4) For the purposes of subsection (1), a PIE auditor is carrying out an engagement for a PIE on a day if—
- (a) the auditor undertakes the engagement on that day; or
 - (b) the auditor has undertaken the engagement before that day and the engagement has not been completed by that day.

(Schedule 7 added 3 of 2019 s. 85)