



Hong Kong Institute of  
Certified Public Accountants  
香港會計師公會

# Compliance

Operations Report 2015





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**Abbreviations used:**

COE	Code of Ethics for Professional Accountants
CPA	Certified Public Accountants
FRC	Financial Reporting Council
HKICPA / Institute	Hong Kong Institute of Certified Public Accountants
HKAS	Hong Kong Accounting Standard
HKSA	Hong Kong Standard on Auditing
HKSIR	Hong Kong Standard on Investment Circular Reporting Engagements
HKSQC	Hong Kong Standard on Quality Control
Members	CPA, CPA firms, corporate practices and registered students
PAO	Professional Accountants Ordinance
PCC	Professional Conduct Committee
RAB	Regulatory Accountability Board
RBA	Resolution by Agreement
SAS	Statement of Auditing Standards

# Introduction

## Regulating CPAs

The Hong Kong Institute of Certified Public Accountants is the licensing body for professional accountants in Hong Kong and is responsible for regulating the conduct of certified public accountants. As part of its regulatory function, the Institute addresses complaints concerning ethical and professional conduct of its members, member practices and registered students.

Compliance with the Institute’s professional standards is a requirement of membership. Complaint and disciplinary processes are key mechanisms by which the Institute regulates the conduct of its members with sanctions being imposed for serious breaches of professional standards.

## Compliance department

The compliance department carries out the Institute’s function of regulating the ethical and professional conduct of CPAs. Integrated within its function are systems for continuous monitoring supported by independent process review. The core activities of the department are:

Enforcement	Promote professional conduct
<ul style="list-style-type: none"><li>▪ Case assessment and investigation</li><li>▪ Disciplinary / regulatory action</li><li>▪ Reporting section 42 offences</li></ul>	<ul style="list-style-type: none"><li>▪ Promote good practice</li><li>▪ Raise awareness of current issues</li></ul>

This report sets out the compliance department’s key activities and associated operations, and comparative analysis for 2014 and 2015.



# Complaints

## **What is a complaint?**

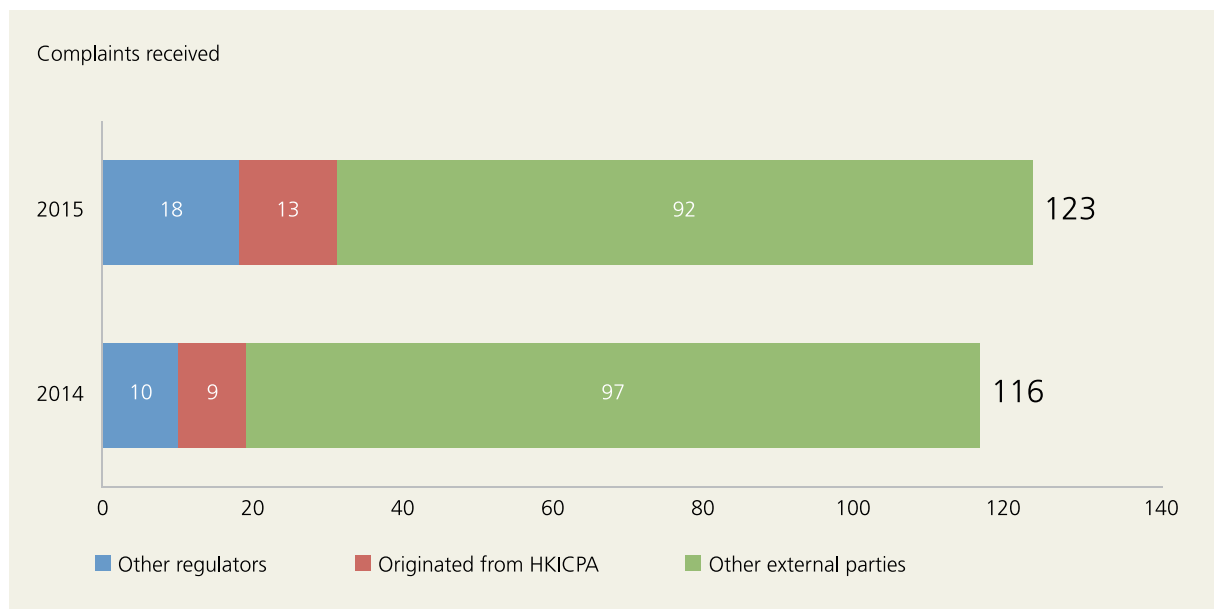
The Institute's power to regulate its members, under the Professional Accountants Ordinance, Cap. 50, allows the organization to pursue complaints against members.

A complaint must be in writing, supported by adequate evidence indicating that the member has failed to follow professional standards issued by the Institute or committed other improper acts.

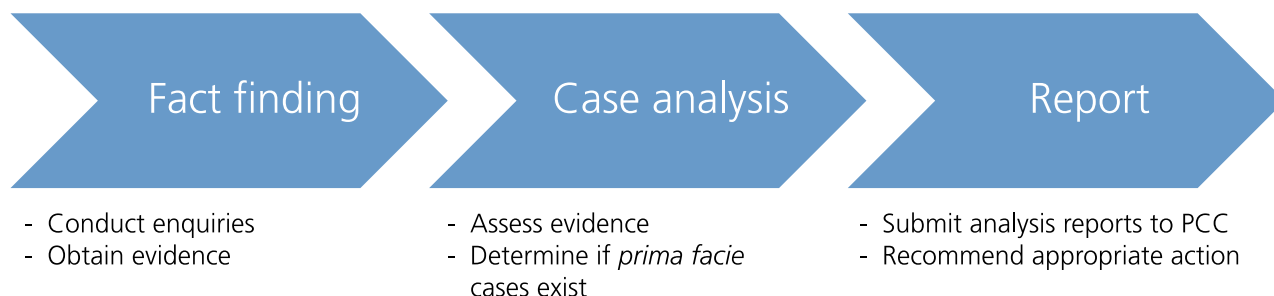
Fee disputes and employment matters are civil issues that are outside the Institute's jurisdiction.



## **Sources of complaints**



## Process



Complaints are objectively analyzed by the compliance department to determine if there is reasonable suspicion that a *prima facie* case exists. Before conducting enquiries of our members, the department will ensure that the subject matter is:

- within the jurisdiction of the Institute; and
- supported by sufficient evidence.

If representations on the matter are needed, members will be notified by the compliance department.

Information gathered by the compliance department and the analysis thereof are reported to the Professional Conduct Committee for consideration of appropriate action.

For details on complaint process, visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/complaints/>.

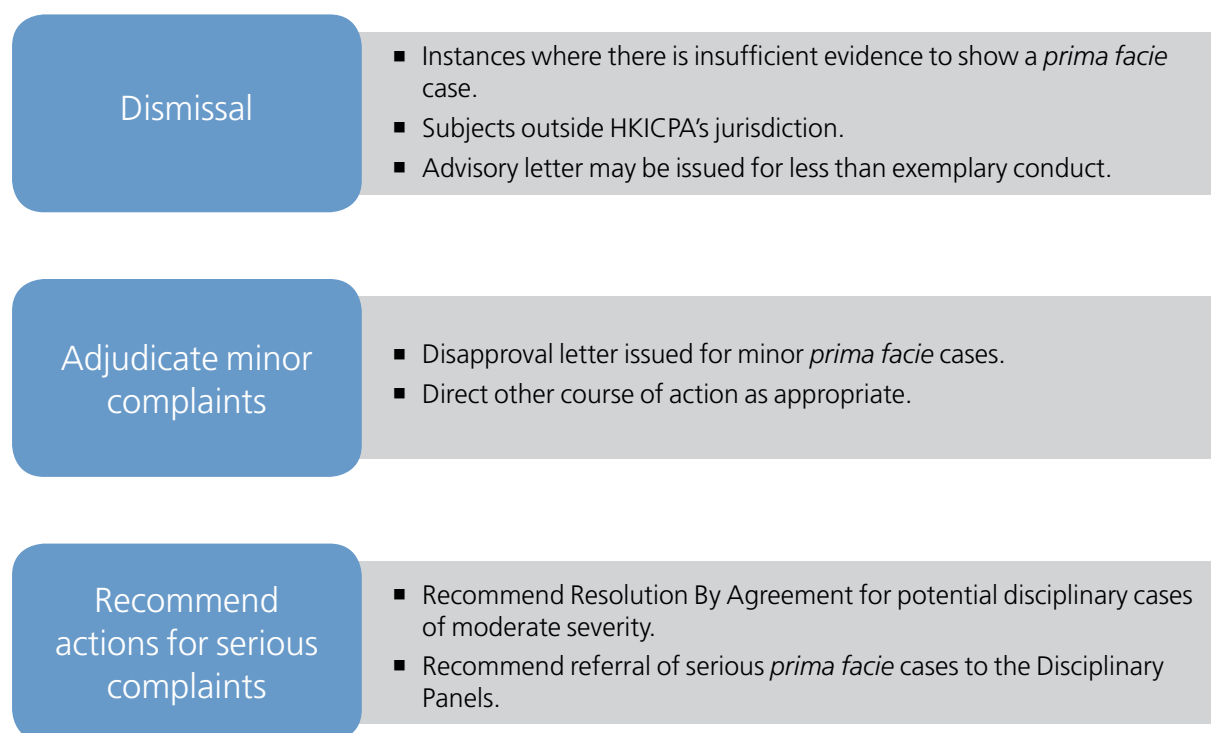
## **Professional Conduct Committee**

The PCC comprises both CPAs and lay persons. The PCC evaluates each complaint independently, based on the information gathered by the compliance department.

When deliberating cases, the PCC:

- Considers each case in light of the circumstances and expected conduct of the member under the relevant professional standards; and
- Is mindful of the Institute's commitment to uphold the quality of professional standards and the positive public perception of the profession in Hong Kong.

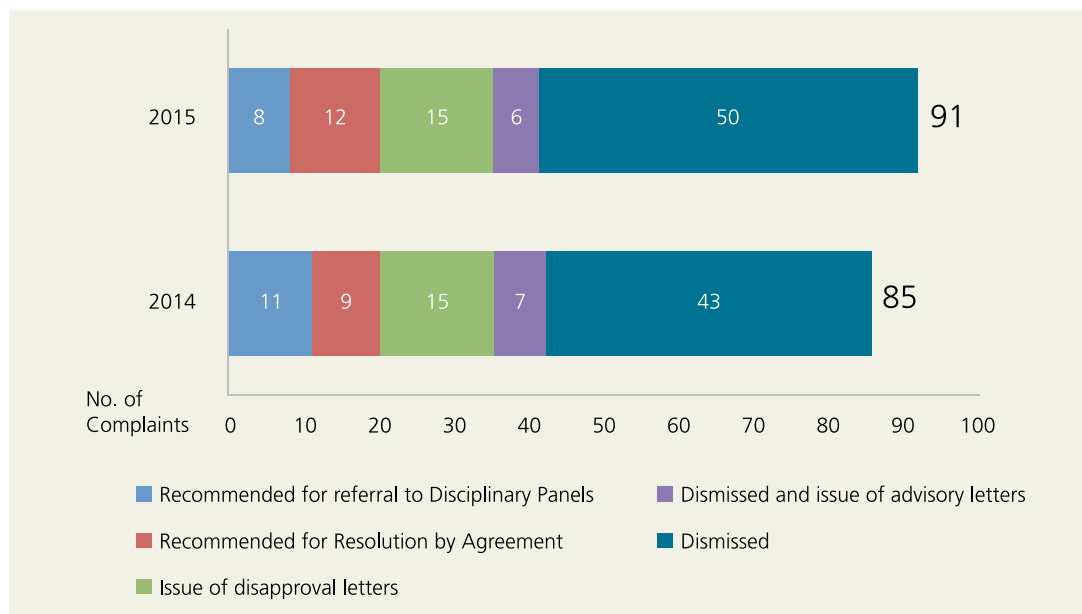
Types of actions under PCC's terms of reference



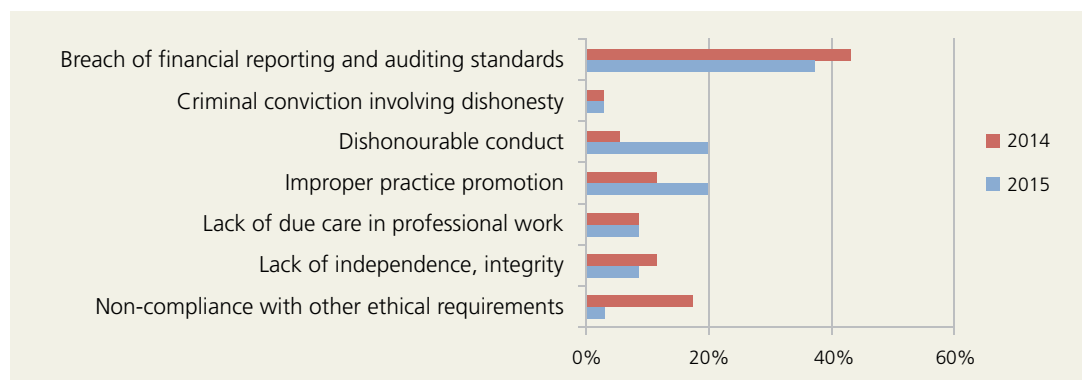


## Statistics

### Complaints resolved by PCC:



### Nature of *prima facie* cases:



### Resolution by Agreement:

The RBA mechanism was established to conclude potential disciplinary cases of moderate severity in lieu of disciplinary proceedings. This allows an effective alternative method to resolve potential disciplinary cases which meet pre-determined criteria in a timely manner.

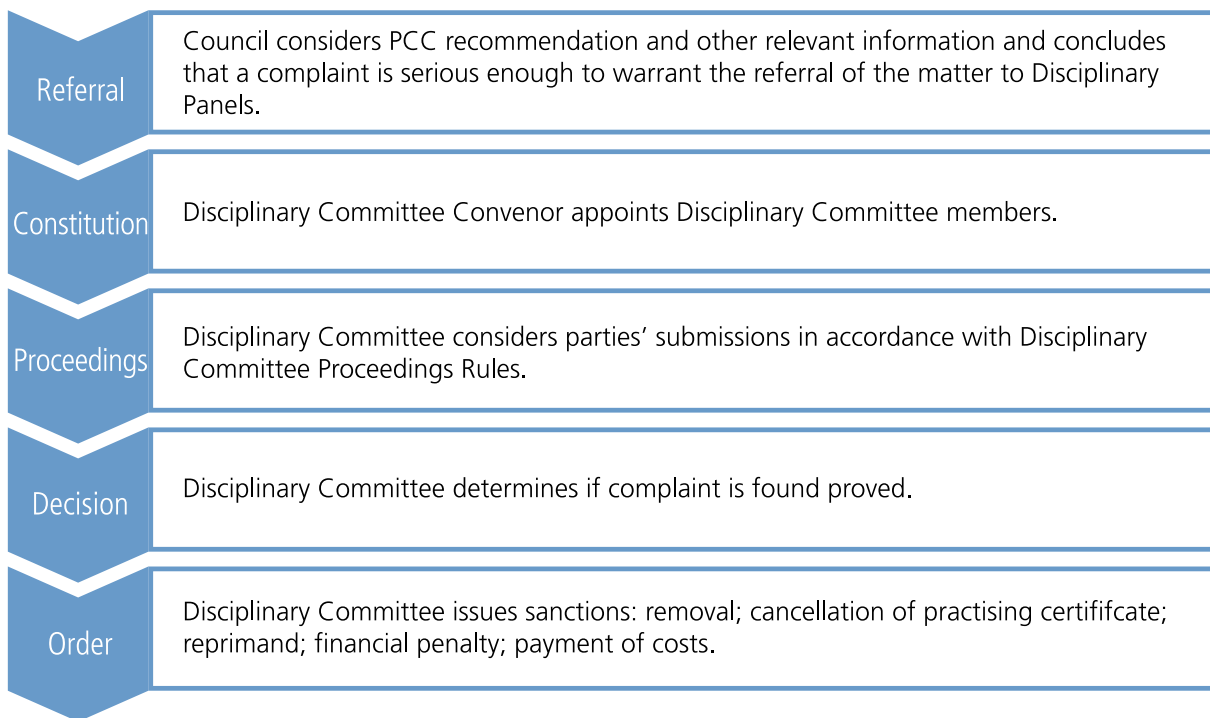
	2015	2014
No. of completed RBAs	5	5

For details of RBAs, visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/resolution-agreement/>.

# Disciplinary proceedings

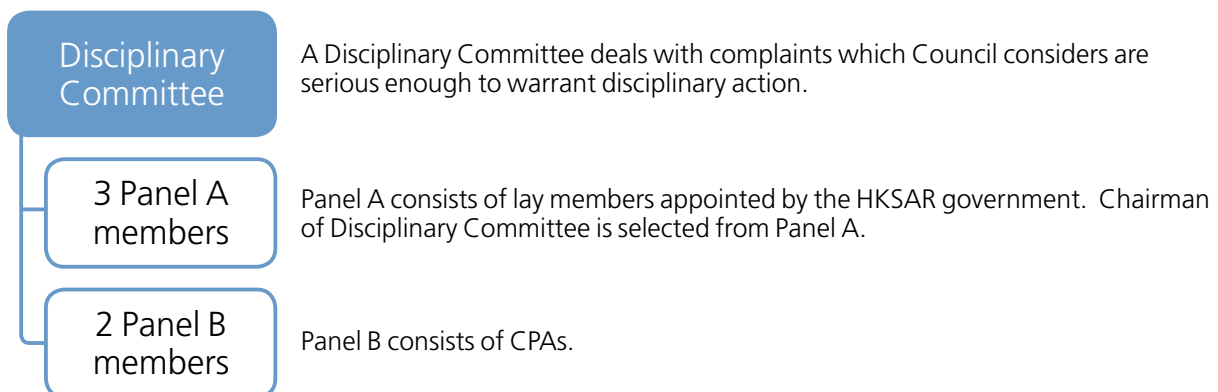
## What is a disciplinary proceeding?

When Council concludes that a complaint is sufficiently serious to warrant referral to the Disciplinary Panels, a Disciplinary Committee will be constituted to adjudicate the complaint by undergoing the following process:



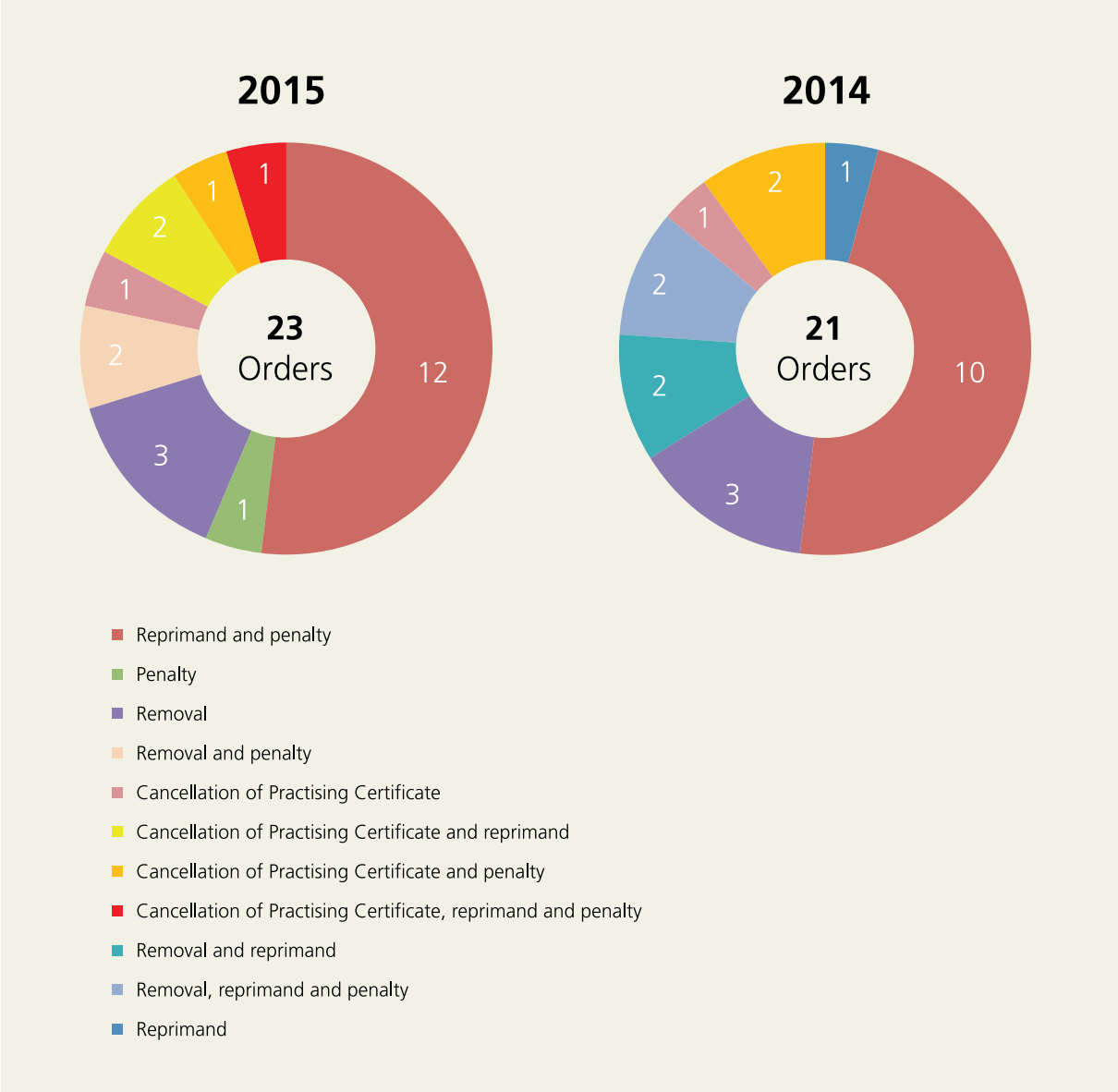
For details on disciplinary process, visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/disciplinary/>

## Disciplinary Committee

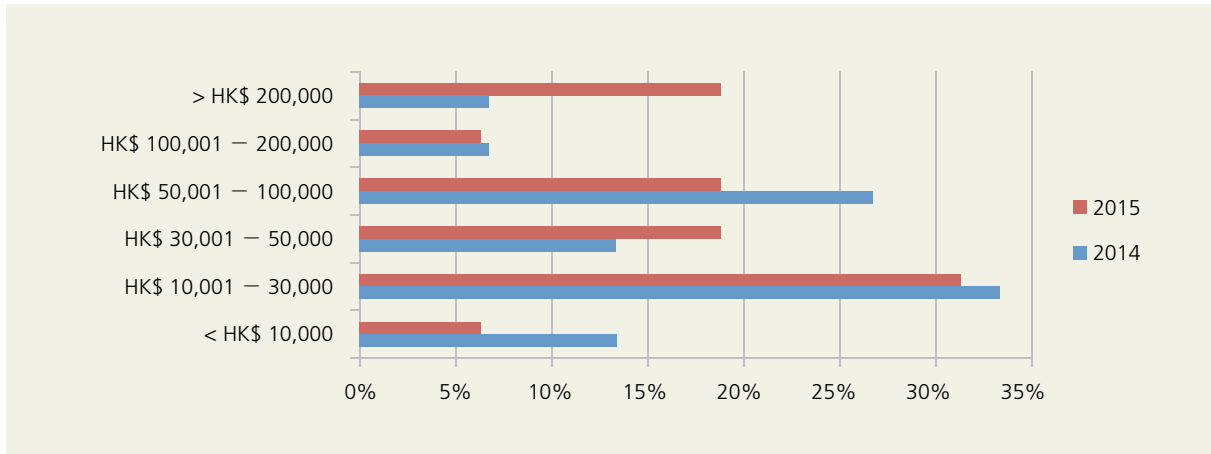


**Statistics**

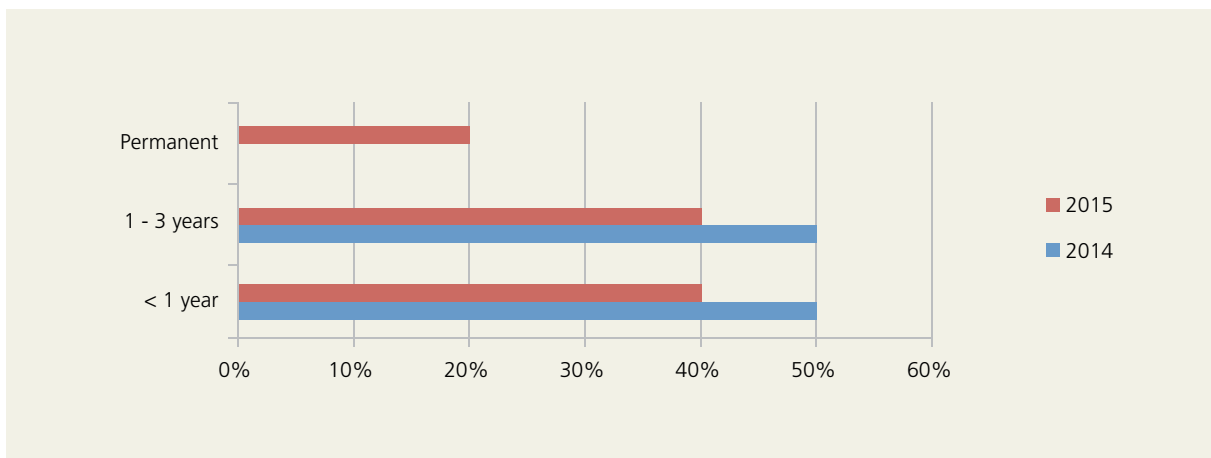
**Sanctions imposed by Disciplinary Committees:**



Level of financial penalties ordered by Disciplinary Committees:



Period of removal and cancellation of practising certificates ordered by Disciplinary Committees:



A summary of disciplinary orders issued in 2015 is at **APPENDIX 1**.

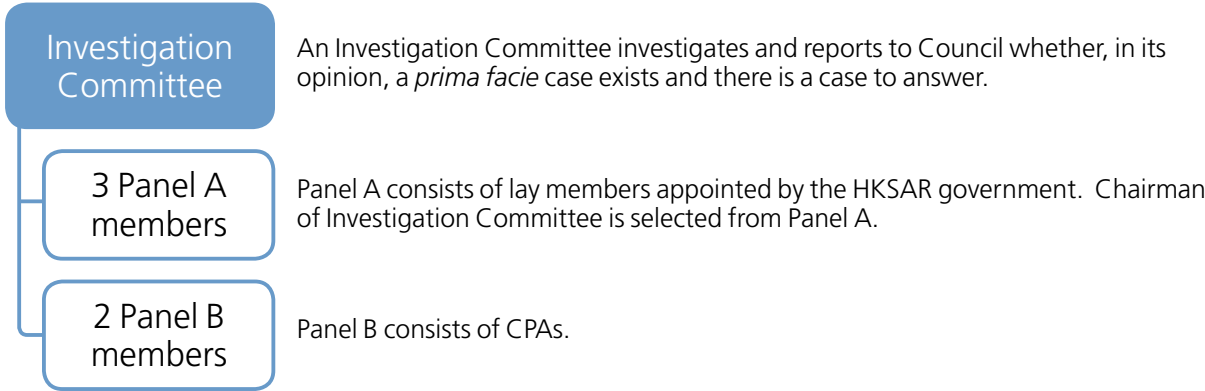
# Investigations

## What is an investigation?

Council may constitute an Investigation Committee when:

- it becomes aware of a matter which gives a reasonable suspicion or belief that a member has not followed professional standards issued by the Institute or has committed other improper acts; and
- the powers of an Investigation Committee are needed to assist the Council in determining if a case should be referred to the Disciplinary Panels.

## Investigation Committee



## Process

- Compliance department provides support to the Investigation Committee in gathering evidence in accordance with the committee's instructions.
- Following the commencement of operations by the Financial Reporting Council in July 2007, the responsibility for investigation of matters involving listed entities has been assumed by the FRC. Accordingly, the Institute is only responsible for investigations of non-listed entities and those involving listed entities which commenced before July 2007.
- There was no new Investigation Committee constituted in 2015.

# Section 42 offence

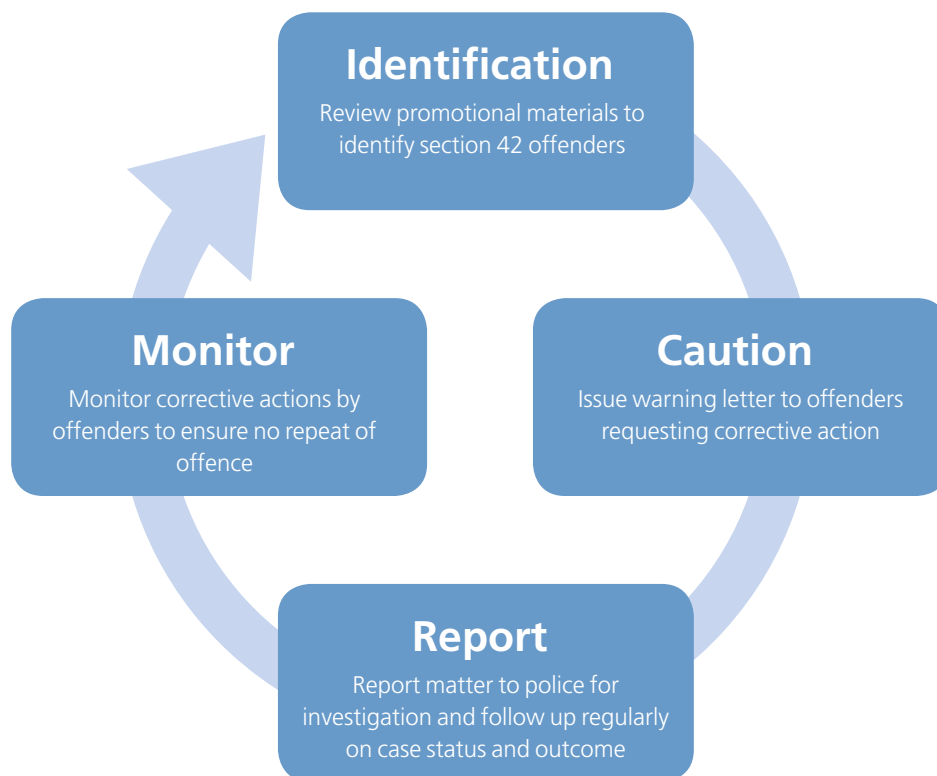
## **What is a section 42 offence?**

Section 42 of PAO prohibits an individual or entity from fraudulently representing that they are qualified and registered as a CPA (practising), or from using “certified public accountant” or “CPA” in their name or in connection with their business.

As the statutory licensing body of the accounting profession in Hong Kong, the Institute not only regulates the conduct of CPAs but it also protects the interests of the profession by taking regulatory action against section 42 offenders. In this connection, the Institute encourages its members and members of the public to forward evidence of suspected section 42 violations.

## **Process**

When the Institute receives promotional materials indicating section 42 violations, the compliance department undertakes the regulatory action described below to deal with the offenders.



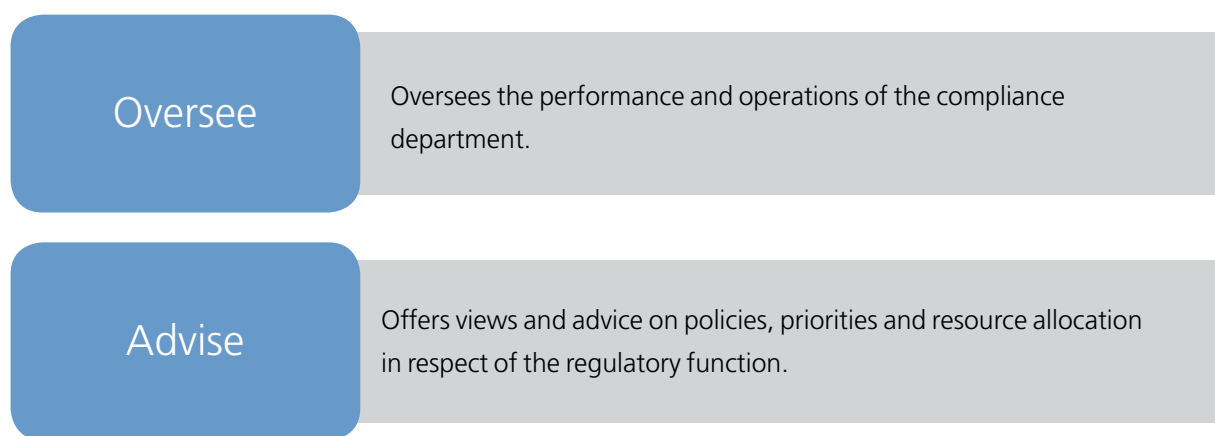
In 2015, regulatory action had been taken against 29 offenders (2014: 18).

# Regulatory oversight

## **Regulatory Accountability Board**

The Regulatory Accountability Board was set up to ensure that the regulatory function of the Institute is carried out in accordance with strategies and policies determined by Council, and in the public interest.

The RAB consists of CPAs, representatives of Hong Kong regulators and lay members. To carry out its responsibilities, the RAB undertakes the following functions:



As part of its oversight functions, the RAB conducts an annual process review of the operations of the compliance department for the purpose of:

- assessing whether the compliance department adheres to established internal procedures;
- evaluating the quality of procedures and time taken to deal with cases; and
- identifying areas that require improvements and making recommendations thereon.

The results of the 2015 process review indicated that:

- ✓ Cases were dealt with in accordance with established internal procedures.
- ✓ No criticisms of the quality of case handling.

Recommendations were made to improve case processing time and file documentation.

Process Review Reports issued by the RAB are published on the Institute's website. Please visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/publications-reference/>.

## APPENDIX 1

### Disciplinary orders

23 disciplinary orders were issued in 2015 (2014: 21). These orders are summarized below:

Nature of complaint	Sanction
<i>Disciplinary orders involving removal from membership</i>	
Guilty of dishonourable conduct. The respondent was convicted of 9 charges involving conspiracy to steal, conspiracy to defraud, and publishing a false statement in a company's annual report. The District Court sentenced the respondent to imprisonment for 5 years and 4 months.	<ul style="list-style-type: none"> <li>■ Permanent removal</li> <li>■ Cost of HK\$24,066</li> </ul>
Failure or neglect to observe, maintain or otherwise apply sections 100.4(a) and 110 "Integrity" of the COE and guilty of dishonourable conduct. The respondent was senior manager of a CPA firm and signed auditor's reports in the name of the firm without its knowledge and authority.	<ul style="list-style-type: none"> <li>■ Removal for 12 months</li> <li>■ Penalty of HK\$30,000</li> <li>■ Cost of HK\$20,499</li> </ul>
<p>Conducting in a manner inconsistent with the good reputation of a professional accountant in breach of Statement 1.200 which applied up to June 2006, and failure or neglect to observe, maintain or otherwise apply Fundamental Principle of Integrity in sections 100 and 110 of the COE which applied from July 2006.</p> <p>The respondent made several materially false or misleading declarations to employers in which the respondent failed to disclose securities trading activities carried out through the securities accounts of two of the respondent's friends. The Securities and Futures Commission took disciplinary action against the respondent, banning the respondent from re-entering the securities industry for 10 months from January 2014.</p>	<ul style="list-style-type: none"> <li>■ Removal for 12 months</li> <li>■ Penalty of HK\$10,000</li> <li>■ Cost of HK\$21,947</li> </ul>
Guilty of dishonourable conduct. The respondent was convicted in the Magistrate's Court of 6 charges of indecent assault.	<ul style="list-style-type: none"> <li>■ Removal for 9 months</li> <li>■ Cost of HK\$47,324</li> </ul>
Failure or neglect to observe, maintain or otherwise apply sections 100.4/5(a) and 110 "Integrity" of the COE. The respondent failed to be straightforward and honest in his dealings with the HKICPA Trust Fund.	<ul style="list-style-type: none"> <li>■ Removal for 6 months</li> <li>■ Cost of HK\$31,829.70</li> </ul>



Nature of complaint	Sanction
<p>Failure or neglect to observe a direction issued by the Practice Review Committee under section 32F(2) of the PAO.</p>	<ul style="list-style-type: none"> <li>■ To cooperate with the Institute to complete a practice review on his practice within 4 months</li> <li>■ Removal for 6 months if respondent fails to comply with above condition</li> <li>■ Penalty of HK\$60,000</li> <li>■ Cost of HK\$223,468</li> </ul>
<i>Disciplinary orders involving cancellation of practising certificates</i>	
<p><u>1st and 3rd respondents</u> Failure or neglect to observe, maintain or otherwise apply paragraphs 100.4(c) and 130.1 "Professional Competence and Due Care" of the COE in the audit of the financial statements of a Hong Kong listed company.</p> <p><u>2nd respondent</u> Failure or neglect to observe, maintain or otherwise apply HKSA 220 "Quality Control for an Audit of Financial Statements" as engagement quality control reviewer of the audit.</p> <p><u>All three respondents</u> Guilty of professional misconduct in performing the audit.</p>	<ul style="list-style-type: none"> <li>■ Cancellation of practising certificates for 24 months for the 1st and 2nd Respondents</li> <li>■ Reprimand for the 3rd respondent</li> <li>■ Cost of HK\$247,075</li> </ul>
<p>Failure or neglect to observe, maintain or otherwise apply paragraphs 290.4 and 290.6 of the COE. The respondent was the engagement director of a corporate practice which issued the auditor's report of a private company for the period when he had been appointed and acted as the chief financial officer of the company.</p>	<ul style="list-style-type: none"> <li>■ Cancellation of practising certificate for 16 months</li> <li>■ Penalty of HK\$100,000</li> <li>■ Cost of HK\$100,000</li> </ul>

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Nature of complaint	Sanction
<p><u>All three respondents</u> Breach of the fundamental principle of “Professional Competence and Due Care” in sections 100 and 130 of the COE.</p> <p><u>1st and 3rd respondents</u> Guilty of professional misconduct.</p> <p><u>3rd respondent</u> Failure or neglected to observe, maintain or otherwise apply a number of auditing standards in the audit of a Hong Kong listed company.</p>	<ul style="list-style-type: none"> <li>■ Cancellation of practising certificate for 14 months for the 1st respondent</li> <li>■ Reprimand for the 2nd and 3rd respondents</li> <li>■ Penalty of: HK\$100,000 for the 1st respondent; HK\$40,000 for the 2nd respondent; and HK\$80,000 for the 3rd respondent</li> <li>■ Cost of HK\$32,500</li> </ul>
<p>Failure or neglect to observe, maintain or otherwise apply HKSQC 1 “Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance and Related Services Engagements”, HKSA 500 “Audit Evidence” and paragraphs 100.5(c) and 130 of COE.</p> <p>The respondent’s practice was selected for practice review. Subsequent follow up practice review visit indicated that the practice continued to fail to take appropriate actions in response to the quality control deficiencies previously identified. In addition, the practice review also identified a number of deficiencies in the practice’s audit engagements of two clients.</p>	<ul style="list-style-type: none"> <li>■ Cancellation of practising certificate for 12 months</li> <li>■ Cost of HK\$22,226</li> </ul>
<p>Failure or neglect to observe, maintain or otherwise apply the Corporate Practices (Registration) Rules, HKSA 230 and HKSA 500 and sections 130 and 440 of COE and guilty of professional misconduct.</p>	<ul style="list-style-type: none"> <li>■ Cancellation of practising certificate for 3 months for the 1st respondent</li> <li>■ Reprimand for the 2nd respondent</li> <li>■ Cost of HK\$69,812</li> </ul>

Nature of complaint	Sanction
<i>Disciplinary orders involving reprimands and financial penalty</i>	
<p>Failure or neglect to observe, maintain or otherwise apply:</p> <p>(a) SAS 400 "Audit Evidence", SAS 230 "Documentation" and SAS 200 "Audit Planning" applying in 1998 and 1999 and the corresponding standards applying in 1997 in the audit of the consolidated financial statements of a company formerly listed in Hong Kong.</p> <p>(b) Professional Ethics Statement 1.200 in that the respondents failed to carry out professional work with a proper regard to technical and professional standards.</p>	<ul style="list-style-type: none"> <li>■ Reprimand for all respondents</li> <li>■ Penalty of: HK\$200,000 for the 1st respondent; HK\$100,000 for the 2nd respondent; and HK\$100,000 for the 3rd respondent</li> <li>■ Cost of HK\$1,351,071</li> </ul>
<p>Failure or neglect to observe, maintain or otherwise apply professional standards issued by the Institute.</p> <p>The 1st respondent was in breach of HKSA 220 and paragraphs 100.4 and 130.1 of the COE.</p> <p>The 2nd respondent was in breach of a number of auditing standards.</p>	<ul style="list-style-type: none"> <li>■ Reprimand for all respondents</li> <li>■ Penalty of: HK\$100,000 for the 1st respondent; and HK\$200,000 for the 2nd respondent</li> <li>■ Cost of: HK\$280,789 for all respondents; and HK\$10,250 for the 1st respondent</li> </ul>
<p>Failure or neglect to observe, maintain or otherwise apply HKSA 500 "Audit Evidence", HKSA 200 "Objective and General Principles Governing an Audit of Financial Statements", HKSA 315 "Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatements", and HKSA 700 "The Independent Auditor's Report on a Complete Set of General Purpose Financial Statements".</p> <p>The respondents failed to comply with auditing standards in their work carried out on the recognition and valuation of mining and exploration rights acquired by a listed company for the years ended 31 December 2008 and 2009.</p>	<ul style="list-style-type: none"> <li>■ Reprimand for both respondents</li> <li>■ Penalty of HK\$100,000 for each respondent</li> <li>■ Cost of HK\$113,351</li> </ul>

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Nature of complaint	Sanction
<p>Failure or neglect to observe, maintain or otherwise apply professional standards issued by the Institute.</p> <p>The 1st and the 3rd respondents were in breach of HKSA 230 "Audit Documentation" and HKSA 500 "Audit Evidence".</p> <p>The 2nd respondent was in breach of HKSA 220 "Quality Control for an Audit of Financial Statements".</p> <p>In addition, the 1st and 2nd respondents were in breach in the Fundamental Principle of Professional Competence and Due Care in sections 100 and 130 of the COE.</p>	<ul style="list-style-type: none"> <li>■ Reprimand for all respondents</li> <li>■ Penalty of: HK\$12,000 each for the 1st and 2nd respondents; and HK\$50,000 for the 3rd respondent</li> <li>■ Cost of HK\$83,216</li> </ul>
<p>Failure or neglect to observe, maintain or otherwise apply multiple professional standards as provided in the sections 110.1, 110.2, 290.4, 290.6 and 290.134 of the COE; HKSAs 220, 300, 315 and 500; Hong Kong Standards 37 and 705. The respondent was guilty of serious professional misconduct covering audit deficiencies, ethical requirements, policies and procedures and quality control.</p>	<ul style="list-style-type: none"> <li>■ Reprimand</li> <li>■ Penalty of HK\$50,000</li> <li>■ Cost of HK\$28,696</li> </ul>
<p>Failure or neglect to observe, maintain or otherwise apply namely paragraphs 10, 11, 12 and/or 17 of HKSA 700. The respondent failed to obtain sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from the material misstatement.</p>	<ul style="list-style-type: none"> <li>■ Reprimand</li> <li>■ Penalty of HK\$50,000</li> <li>■ Cost of HK\$19,473</li> </ul>
<p>Failure or neglect to observe, maintain or otherwise apply HKSA 230 "Audit Documentation" in the audits of the financial statements of a listed company in Hong Kong for the years ended 31 December 2008. The respondents failed to prepare audit documentation that provides a sufficient and appropriate record of the objective analysis undertaken to support the basis of their concurrence with the listed company's accounting treatment of the impairment losses recorded in the investment revaluation reserves.</p>	<ul style="list-style-type: none"> <li>■ Reprimand</li> <li>■ Penalty of HK\$35,000</li> <li>■ Cost of HK\$129,695</li> </ul>
<p>Failure or neglect to observe, maintain or otherwise apply sections 100.5, 110 and 150 of the COE. The respondent breached of the fundamental principle of integrity by misrepresenting professional and academic qualifications and other credentials in internet social media.</p>	<ul style="list-style-type: none"> <li>■ Reprimand</li> <li>■ Penalty of HK\$25,000</li> <li>■ Cost of HK\$22,436</li> </ul>

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Nature of complaint	Sanction
Failure or neglect to observe, maintain or otherwise apply a professional standard, namely HKSA 500 "Audit Evidence". The respondent failed to obtain sufficient appropriate audit evidence in respect of cash and cash equivalents in the financial statements. As a result, the balance was materially overstated.	<ul style="list-style-type: none"> <li>■ Reprimand</li> <li>■ Penalty of HK\$20,000</li> <li>■ Cost of HK\$16,118</li> </ul>
Failure or neglect to observe, maintain or otherwise apply sections 100.5 and 110 "Integrity" of the COE. The respondent falsely claimed, on a number of public occasions, that he held a Master degree in Professional Accounting when he was only a student of that programme at the relevant time.	<ul style="list-style-type: none"> <li>■ Reprimand</li> <li>■ Penalty of HK\$10,000</li> <li>■ Cost of HK\$64,265</li> </ul>
Failure or neglect to observe, maintain or otherwise apply namely paragraph 100.4(e) of the COE (effective on 30 June 2006) and elaborated in section 150 of the COE, as evidenced by their breach of the respondents' director's undertaking for failure to use their best endeavours to procure the company's compliance with the Listing Rules.	<ul style="list-style-type: none"> <li>■ Reprimand for all respondents</li> <li>■ Penalty of HK\$1,000 for each respondent</li> <li>■ Cost of HK\$79,000</li> </ul>
<i>Disciplinary order undergoing appeal process</i>	
Failure or neglect to observe, maintain or otherwise apply professional standard namely HKAS 39 in the audit of the financial statements of a Hong Kong listed company.	<ul style="list-style-type: none"> <li>■ Case undergoing appeal</li> <li>■ Cost of HK\$95,401</li> </ul>

**Note:**

Costs and expenses of and incidental to the proceedings of the complainant were ordered to be paid by the respondents in all of the above cases. For details on the disciplinary orders, visit: <http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/disciplinary/>





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