



MEMBERS' HANDBOOK

Update No. 164

(Issued 24 January 2015)

Document Reference and Title	Instructions	Explanations
<u>VOLUME I</u>		
Contents of Volume I	Discard existing page i and replace with revised page i.	Revised contents page
STATEMENT		
<u>Statement 1.102 Corporate Practices (Registration) Rules (Jan 2015)</u>	Discard Statement 1.102 Corporate Practices (Registration) Rules 2014 (March 2014) and replace it with the Jan 2015 version.	Note
<i>Statement 1.102 Corporate Practices (Registration) Rules (Sep 2004)</i>	Discard the document	Note
<i>Statement 1.102 (sch.)(Sep 2004) Schedule to the Corporate Practices (Registration) Rules "Corporate Practices (Model Memorandum and Articles of Association)"</i>	Discard the document	Note

Note:

The one-year transitional period for existing sole practising member corporate practices registered before 24 January 2014 to comply with the Professional Accountants (Amendment) Ordinance 2013 ended on 23 January 2015. Accordingly, Rule 31 of the Corporate Practices (Registration) Rules regarding the transitional arrangement is repealed, and the Corporate Practices (Registration) Rules (September 2004) and its schedule, the Model Memorandum and Articles of Association (September 2004), have become invalid as from 24 January 2015.



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**PROFESSIONAL ACCOUNTANTS ORDINANCE
CHAPTER 50 SECTIONS 17, 18 AND 51**

Corporate Practices (Registration) Rules

Authority and Commencement

1. These Rules are made by the Council (the "**Council**") of the Hong Kong Institute of Certified Public Accountants (the "**HKICPA**") pursuant to sections 17, 18 and 51 of the Professional Accountants Ordinance (Cap. 50) ("**PAO**") and shall come into operation on 3 March 2014.

Citation and Interpretation

2. These Rules may be cited as the Corporate Practices (Registration) Rules, and shall apply to all applicants for, and holders of, current corporate practice registration certificates.
3. In these Rules, unless the context otherwise requires:
 - (a) "**authorised person**" means a practising member who has been duly authorised by the board of directors of a sole practising member corporate practice and approved by the Council to practise as a certified public accountant (practising) in the name of the sole practising member corporate practice in the event of death or incapacity or disqualification or involuntary absence of the sole practising member for such period and subject to such conditions as the Council may impose.
 - (b) "**certified public accountant**" means a person who is registered as a certified public accountant under the PAO.
 - (c) "**corporate applicant**" means a body corporate with limited liability established to carry on the business and to perform any of the functions of a certified public accountant (practising), and which applies for a corporate practice registration certificate to be issued under section 28F of the PAO.
 - (d) "**corporate practice**" means a corporate applicant which is for the time being registered under section 28E of the PAO.
 - (e) "**director**", in relation to a corporate applicant or corporate practice, has the same meaning as a director under the Companies Ordinance (Cap. 622) ("Companies Ordinance").
 - (f) "**disqualification**", in relation to a shareholder and director of a corporate applicant or corporate practice, means any disqualification from being a director of the corporate applicant or corporate practice by reason of the occurrence of any one of the events set out in the relevant article concerning disqualification of directors contained in the applicable Model Articles of Association.
 - (g) "**incapacity**", in relation to a shareholder and director of a corporate applicant or corporate practice, means any incapacity or senility certified in writing by two qualified medical practitioners that such person is not capable, whether due to illness, old age, accident or otherwise, of carrying on an accountancy practice or the business of a certified public accountant (practising) in a proper and effective way.

- (h) "**involuntary absence**", in relation to a shareholder and director of a corporate applicant or corporate practice, means the absence of such person as a result of any extraordinary event(s) or circumstance(s) which are beyond his/her reasonable contemplation or control, and which prevent him/her from attending to the business of the corporate practice.
- (i) "**non-practising member director**" means the director who is a certified public accountant but is not a practising member.
- (j) "**practising member**" means a certified public accountant holding a current practising certificate issued under the PAO.
- (k) "**reserve director**", in relation to a corporate applicant or corporate practice, has the same meaning as a reserve director under the Companies Ordinance.
- (l) "**sole practising member corporate practice**" means a corporate applicant or a corporate practice (as the case may be) which has only one member.

Eligibility for Registration as a Corporate Practice

4. A corporate applicant may be granted registration only if:
 - (a) it is a company limited by shares and formed and registered under the Companies Ordinance;
 - (b) in the case of a corporate applicant other than a sole practising member corporate practice:
 - (i) all the shareholders are directors and all the directors are shareholders of the corporate applicant;
 - (ii) every shareholder and every director of the corporate applicant is a certified public accountant;
 - (iii) all the shareholders are the ultimate beneficial owners of shares that they hold in the corporate applicant;
 - (iv) not less than two-thirds of the total number of directors are practising members;
 - (v) not less than two-thirds of the voting shares in the corporate applicant are beneficially owned by practising members; and
 - (vi) every non-practising member director satisfies the requirements from time to time laid down by the Council;
 - (c) in the case of a sole practising member corporate practice:
 - (i) there is only one shareholder and the shareholder is a director of the corporate applicant;
 - (ii) the shareholder is a practising member;

- (iii) the shareholder is the ultimate beneficial owner of all the share or shares held in the corporate applicant;
 - (iv) save and except where a dispensation is granted under Rule 25:
 - (A) there is only one director and the director is the shareholder of the corporate applicant;
 - (B) the director is a practising member.
 - (d) the corporate applicant complies with the Corporate Practices (Professional Indemnity) Rules (the "**PI Rules**") issued by the Council; and
 - (e) the Articles of Association ("**AA**") of the corporate applicant follow substantially and do not contradict or operate inconsistently with the provisions of the applicable Model AA in the Schedule, as shall be appropriate.
5. [Deleted]

Compliance with the HKICPA's Rules

6. Every corporate practice, its directors and shareholders shall at all times observe the HKICPA's By-laws, Professional Standards and other Rules and any of them as may be amended from time to time which apply to all certified public accountants (the "**HKICPA's Rules**"). Certified public accountants who are shareholders and directors of a corporate practice shall be responsible for and accountable to the HKICPA for the conduct of the corporate practice, and shall be severally liable to disciplinary action for any failure by the corporate practice to comply with the HKICPA's Rules. To avoid doubt, it is hereby declared that no corporation shall be qualified to be a member or director of a corporate practice and no company having a corporate member or director shall be qualified for registration as a corporate practice.

Audit Report and Engagement Letter

7. Save and except where a dispensation is granted under Rules 24 to 26, an audit report issued by a corporate practice from time to time shall be signed by a director of the corporate practice who is a practising member.
8. The audit report shall state the name of the corporate practice, and be signed in the name of the corporate practice. The report shall identify the director responsible for the performance of the audit engagement contemplated by such report and state his/her full name, as appearing in his/her practising certificate, and his/her practising certificate number.
9. The audit engagement letter shall identify the director appointed by the corporate practice to be responsible for the performance of the audit engagement contemplated by the audit report.

Application for Registration

10. A corporate applicant seeking registration shall submit an application in such form and manner as the Council shall from time to time prescribe, which shall include:

- (a) the name and the address of the registered office of the corporate applicant;
 - (b) the name and address of each person who is a director and shareholder of the corporate applicant and his/her shareholding in it;
 - (c) in the case of a sole practising member corporate practice, the name and address of the reserve director, if any;
 - (d) in the case of a sole practising member corporate practice, the name and address of the authorised person, if any;
 - (e) such evidence as the Council shall require that the constitution including the AA of the corporate applicant is in accordance with Rule 4;
 - (f) such evidence as the Council shall require that the corporate applicant satisfies the PI Rules;
 - (g) a declaration by a practising member director for and on behalf of the corporate applicant that it agrees to be bound by and will at all times comply or procure compliance with the HKICPA's Rules, including, among others, these Rules and other Rules relating to corporate practices;
 - (h) save and except a sole practising member corporate practice, a declaration by a practising member director for and on behalf of the corporate applicant that all the shareholders of the corporate applicant are the ultimate beneficial owners of shares that they hold in the corporate applicant, and that not less than two-thirds of the voting shares of the corporate applicant are beneficially owned by practising members; and
 - (i) in the case of a sole practising member corporate practice, a declaration by the sole practising member director for himself/herself and for and on behalf of the corporate applicant that he/she is the sole shareholder of the corporate applicant and the ultimate beneficial owner of all the share or shares in the corporate applicant.
11. A registration fee, as may be fixed by the Council from time to time under section 28D(4) of the PAO, is payable on application for registration as a corporate practice.
12. The Council may, as provided under section 26 (applicable to corporate applicants pursuant to section 28G of the PAO) and sections 28D(3) and (4) of the PAO, grant or refuse the application.

Annual Registration

13. An application for renewal of registration as a corporate practice shall be made to the Registrar appointed by the Council under the PAO (the "**Registrar**") not later than 15 December in the year preceding the year of renewal (or such later day as the Council may approve either generally or in respect of any application) in such form as the Council may specify, and shall not be granted except on payment of the registration fee fixed by the Council.
14. An applicant for renewal of registration as a corporate practice shall submit such evidence as the Council may require to demonstrate that the applicant satisfies the HKICPA's Professional Indemnity and Registration Rules relating to corporate practices.

Changes in Circumstances

15. A corporate practice shall notify the Registrar in writing within 14 days of any change in the circumstances of the corporate practice as specified in Rule 16 below.
16. A corporate practice shall notify the Registrar in writing of:
 - (a) any change to:
 - (i) the name or the address of the registered office of the corporate practice; or
 - (ii) directors or shareholders of the corporate practice; or
 - (iii) the name or the address of any of the directors and shareholders of the corporate practice; or
 - (iv) the AA of the corporate practice

by forwarding a copy of the applicable notices or returns required by the Companies Ordinance provided that in case of Rule 16(a)(iv), written notice of any changes or proposed changes to the AA in respect of a corporate practice shall be sent to the Registrar within the time frame prescribed under section 28H of the PAO;
 - (b) the occurrence of any of the following events:
 - (i) the appointment of a receiver; or
 - (ii) the passing of a special resolution for a voluntary winding-up of the corporate practice; or
 - (iii) the corporate practice is notified of the presentation of a petition for a compulsory winding-up of the corporate practice; or
 - (iv) the making of a statutory declaration by the directors for a creditors' voluntary winding-up under section 228A of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32);
 - (c) cessation of the corporate practice's compliance with the requirements of Rule 4;
 - (d) the devolution of any share held in a sole practising member corporate practice;
 - (e) the death or incapacity or disqualification or involuntary absence of any director and shareholder of the corporate practice; or
 - (f) the appointment of or any change to the reserve director of a sole practising member corporate practice or any change in the name or address of such person; or
 - (g) the appointment of or any change to the authorised person in a sole practising member corporate practice or any change in the name or address of such person.
17. Members are reminded that there are separate notification requirements under the Companies Ordinance and the Companies (Winding Up and Miscellaneous Provisions) Ordinance in relation to the notifiable matters prescribed under Rule 16 above and other changes of circumstances of a company.

Withdrawal of Registration

18. The Council may withdraw registration from a corporate practice where the Council considers that:
- (a) the corporate practice has breached or ceased to meet the requirements of Rule 4;
 - (b) the corporate practice has ceased to comply with the PI Rules;
 - (c) the corporate practice has breached or ceased to comply with any restriction or condition imposed pursuant to Rules 21(a), 22 or 26;
 - (d) the corporate practice has breached or ceased to comply with any of these Rules in any respect and in the circumstances withdrawal is justified; or
 - (e) any other circumstances for removal from the register as prescribed under section 27(1)(b) of the PAO has arisen.

Suspension of Registration

19. The Council may make an order to suspend a corporate practice's registration for such period as the Council considers appropriate if it considers that:
- (a) any of the circumstances mentioned in Rules 18(a) to (e) inclusive exists or may exist and in the circumstances suspension is justified; or
 - (b) the corporate practice has or may reasonably be suspected to have breached or ceased to comply with any of these Rules in any respect and in the circumstances the suspension is justified.

A corporate practice shall not practise as certified public accountant (practising) or continue in any current appointment as auditor under the provisions of section 29 of the PAO during a period of suspension. It will not therefore be eligible for a new appointment or continue in any existing appointment as an auditor.

20. The Council may at any time vary or revoke an order made under this Rule.

Notice of Withdrawal or Suspension Others

21. The Council may make an order to withdraw or suspend the registration of a corporate practice under Rule 18 or 19 without prior notice to the corporate practice if the Council considers that a delay in making such an order might seriously prejudice an audit client or any other party. In all other circumstances, the Council shall afford the corporate practice an opportunity to make oral or written representations in respect of a direction to make an order against it under this Rule within 21 days after notice is sent to it of the same. Having considered any such representations, the Council may:
- (a) revoke the direction unconditionally, or subject to compliance with conditions set by the Council; or

- (b) order that the direction to withdraw or suspend registration be effected for such period as the Council shall consider appropriate.

Dispensation

22. If the corporate practice ceases or is likely to cease to meet the requirements of Rule 4 the corporate practice shall notify the Council in writing of the step or steps which the corporate practice is taking to remedy the position. The Council shall review the circumstances of the case. If it considers that the step or steps which the corporate practice is taking will remedy the position, the Council shall grant to the corporate practice a dispensation from the requirement to comply with Rule 4 for such period or periods and subject to such conditions as the Council considers necessary to enable the remedial step or steps to be effected. The Council shall not grant any such dispensation unless the corporate practice can demonstrate to the Council's satisfaction that the continued registration of the corporate practice during the period in which the dispensation is to apply would not be prejudicial to an audit client or any other party. The corporate practice shall comply with any conditions set by the Council for granting the dispensation.

Force Majeure

23. If any event happens or any circumstances arise beyond the reasonable contemplation or control of the corporate practice ("**Force Majeure**") which make it impossible or impracticable for a corporate practice to comply with any of these Rules, the corporate practice shall forthwith inform the Registrar in writing of what has happened and the steps (if any can be taken) which the corporate practice proposes to take to deal with those events or circumstances. If the Council is satisfied that the event or circumstances is a Force Majeure and that the corporate practice is expeditiously taking all practicable steps available to it to relieve the situation, it may grant a dispensation to the corporate practice from the requirement to comply with any such Rule. The Council shall not grant any such dispensation unless the corporate practice can demonstrate to the Council's satisfaction that dispensation would not be seriously or unfairly prejudicial to the interests of any audit client or any other party.

Death, Incapacity, Disqualification and Involuntary Absence of Sole Practising Member

24. Without prejudice to Rule 23 and subject to Rule 27, a dispensation of compliance with a requirement laid down in Rule 7 may be granted in the event of death or incapacity or disqualification or involuntary absence of the sole practising member of a sole practising member corporate practice by which an authorised person may sign an audit report in the name of the corporate practice.
25. Without prejudice to Rule 23 a dispensation of compliance with a requirement laid down in Rule 4(c) may be granted in the event of death or incapacity or disqualification or involuntary absence of the sole practising member of a sole practising member corporate practice by which a non-shareholder or a non-practising member who is eligible for appointment as a director under the Companies Ordinance may be appointed as:
- (a) a reserve director;
 - (b) a director in place of the sole practising member; or

(c) an alternate director,

of the sole practising member corporate practice for the continuation of the accountancy business operated by the corporate practice.

26. An application under Rules 23 to 25 shall be submitted to the Council within seven days (or such longer period as the Council may allow) after the occurrence of the event giving rise to the application or, in the case of the appointment of a reserve director, any time during the registration of the sole practising member corporate practice. Any approval granted may have retrospective effect as from the occurrence of such event and for such period or periods and subject to such conditions as the Council considers necessary to enable the continuation of the accountancy business operated by the corporate practice. The application shall be made by such person as the Council may accept.
27. An application under Rule 24 shall not be approved by the Council unless the authorised person is an insured party under the sole practising member corporate practice's insurance policy(ies) taken out in accordance with the PI Rules.

Cessation of Registration

28. A corporate practice shall cease to be registered if:
- (a) an application from the corporate practice for withdrawal of registration under section 50 of the PAO is accepted by the Council; or
 - (b) the Council withdraws registration in accordance with Rule 18, but no breach of these Rules by the corporate practice and no breach of a restriction or condition imposed under Rules 21(a), 22 or 26, shall invalidate the eligibility for appointment or the appointment for the time being as an auditor under the provisions of section 29 of the PAO of any corporate practice whose registration has not been withdrawn or suspended under Rule 18 or 19.
29. Every certified public accountant who is a director of a corporate practice which ceases to be registered must obtain run-off cover in accordance with the PI Rules. Failure to do so will subject him/her to disciplinary action under section 34 of the PAO. No application for withdrawal will be accepted by the Council unless the corporate practice has arranged run-off covers in accordance with the PI Rules.

Others

30. The Council hereby reserves the right to alter, amend or supplement any terms and conditions stipulated in these Rules from time to time and will give reasonable notice to every certified public accountant of such alteration(s), amendment(s) or supplement(s) in any manner as it may, in its sole and absolute discretion, think fit. Such notice shall have effect irrespective of whether such certified public accountant has actually received the notice or has actual knowledge thereof.
31. [Deleted]