

Division 4
Financial Services Branch
Financial Services and the Treasury Bureau
15/F, Queensway Government Offices
66 Queensway
Hong Kong

19 September 2014

Dear Sir or Madam

Regulatory Regime for Listed Company Auditors: Response to Consultation

The Association of Chartered Certified Accountants (ACCA) is grateful for the opportunity to respond to the consultation on the Proposed Regulatory Regime for Listed Company Auditors.

If there are any matters arising from the enclosed response that require further clarification, please do not hesitate to contact me (tel: +44 (0)20 7059 5931, [email: sha.alikhan@accaglobal.com](mailto:sha.alikhan@accaglobal.com)).

Yours sincerely



Sha Ali Khan
Director – Practice Monitoring

Proposals to Improve the Regulatory Regime for Listed Company Auditors

A consultation issued by the Financial Services and Treasury Bureau

Comments from ACCA

19 September 2014

ACCA (the Association of Chartered Certified Accountants) is the global body for professional accountants. We aim to offer business-relevant, first-choice qualifications to people of application, ability and ambition around the world who seek a rewarding career in accountancy, finance and management.

Founded in 1904, ACCA has consistently held unique core values: opportunity, diversity, innovation, integrity and accountability. We believe that accountants bring value to economies in all stages of development. We aim to develop capacity in the profession and encourage the adoption of consistent global standards.

We support our 170,000 members and 436,000 students in 180 countries, helping them to develop successful careers in accounting and business, with the skills needed by employers. We work through a network of over 91 offices and centres and 8,500 Approved Employers worldwide, who provide high standards of employee learning and development.

ACCA works in the public interest, assuring that its members are appropriately regulated for the work they carry out, and promoting principles-based approaches to regulation. We actively seek to enhance the public value of accounting in society through international research, and we take a progressive stance on global issues to ensure accountancy as a profession continues to grow in reputation and influence.

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GENERAL POINTS

ACCA welcomes the opportunity to comment on the proposals issued by the Financial Services and the Treasury Bureau on the Regulatory Regime for Listed Company Auditors.

GENERAL COMMENTS

ACCA believes that, in general, the proposed changes will substantially improve the regulatory regime for listed company auditors in Hong Kong. Achieving the key objective of the reform and elevating the regulatory regime in Hong Kong to world class standards are essential if Hong Kong is to retain its position as an international capital market. The reforms should also ensure that the regulatory regime for listed company audits is as effective as those promoted by the International Forum of Independent Audit Regulators (IFIAR), the European Union (EU), the International Organization of Securities Commissions (IOSCO) and the International Monetary Fund (IMF). While ACCA has commented on the questions raised in the consultation there are three matters in particular to which we would draw attention.

Scope of the reforms

ACCA believes that regulation should be both proportionate and targeted and we therefore agree that the new regime should be focussed on the audits of listed companies. However, we also believe that the scope of the reforms should be extended, in part, to the audit of entities other public interest entities (PIEs). This would bring the Hong Kong regulatory regime closer to that implemented in the EU where professional body regulation of the audits of non-PIEs must be subject to a system of independent public oversight.

We therefore believe that the proposals for reform should include oversight by the Financial Reporting Council (FRC) over the regulatory activities of the Hong Kong Institute of Certified Public Accountants (HKICPA), both in connection with the audits of non-PIEs and the other activities of its members.

We firmly believe that public oversight is essential to maintain public confidence in the profession and, in our opinion, restricting the reforms to the audits of PIEs will result in a lost opportunity for wider reform.

Delegation of regulatory responsibilities to HKICPA

While we broadly agree with the proposals to delegate a number of regulatory responsibilities to HKICPA under the oversight of the FRC, we believe that audit monitoring, also known as quality assurance, of the audits of PIEs should be conducted by the FRC directly without delegation.

Our view is based on the necessarily judgemental nature of audit monitoring, which can make it difficult to identify error, misjudgement or bias through oversight. We would draw your attention to the recently issued EU Regulation No 537/2014 on the statutory audit of PIEs which will prohibit the delegation by public oversight boards of the audit monitoring of such entities. We believe that this is a step in the right direction to preserve confidence in the integrity of these audits.

Independence from auditors

Ensuring that the system of regulation is independent from auditors and the auditing profession is the key driver behind the proposed changes to the regulatory regime. However, ACCA believes that the system of regulation should also be independent of accountants and the accounting profession because accountants and auditors are inextricably linked. For example, accountants and auditors practise as partners within the same firm, often they hold the same professional qualification and there are many accountants who have been auditors themselves previously.

In view of the above, we believe that certain proposals, such as the one included under question 47, that restrict the involvement of auditors in regulatory processes, should also similarly restrict the involvement of accountants.

Other audit regulators recognise that the accounting profession is not entirely independent from the auditing profession. They therefore ensure that the composition of committees, boards and tribunals comprise a majority of non-accountants. For example, ACCA's licensing, disciplinary and appeal committees are required to have a majority of non-accountants. We would also draw your attention to the composition of the board of the UK Financial Reporting Council and the US Public Company Accounting Oversight Board. Non-accountants are in a majority on the boards of both organisations.

Separation of functions within the FRC

We agree with the proposal that the FRC, as the future independent auditor oversight body, should be vested with disciplinary powers, including powers to make decisions on disciplinary cases, concerning listed entity auditors.

However, we strongly believe that there needs to be an effective separation of the responsibility and power to investigate - which rests with the FRC - and the power to discipline, in the interests of fairness and natural justice. This principle of the separation of powers is widely recognised and accepted and has been adopted by some regulators of the accounting profession, including ACCA.

We therefore believe that the FRC should be required to operate its disciplinary committee on a panel basis to ensure that any decision is taken without conflicts of interest. Decisions to appoint persons to the panel and decisions to appoint members of the panel to constitute a disciplinary committee, must be made independently and free from influence of the FRC board.

SPECIFIC ISSUES

Question 1. Do you agree with the proposed objective of the reform, i.e. to enhance the independence of the regulatory regime for auditors of listed entities from the profession itself with a view to ensuring that the regime is benchmarked against international standards and practices and continues to be appropriate in the local context?

We agree that the principal objective of the reform should be to enhance the independence of the regulatory regime for auditors of PIEs, including listed companies, so that it meets 'international best practice'.

However, we suggest that the reform should also extend to public oversight over all of the regulatory activities of HKICPA, including those in relation to auditors of entities other than PIEs. In the EU, public oversight of professional body audit regulation as a whole is an established requirement that is increasingly recognised as best practice internationally.

Question 2. Do you agree that the new regulatory regime should only cover auditors of public interest entities, which will be defined to cover listed entity auditors?

Please see answer to question 1 regarding the scope of the reforms.

We do not agree that only listed entities ought to be considered to be public interest entities (PIEs). While there is no globally accepted definition of what constitutes a PIE, we would draw your attention to the definition used by the UK FRC. This includes non-listed entities such as large pension schemes and large private companies. Consideration should also be given to including, as PIEs, entities over a certain size that take money from the public, such as charities and those that hold money and other assets in a fiduciary capacity. However, we would caution against defining public interest entity too widely.

Question 3. Do you agree that the definition of public interest entities should be set out in the main legislation such that any change in future could only be made by way of an amendment bill?

We believe that the main legislation should define public interest entities to include listed companies as a minimum but it should also include other entities as determined by the oversight board in consultation with interested parties, including HKICPA, and the public. Such an arrangement would avoid the need to pass legislation in order to amend the definition of a public interest entity in response to changes demanded by interested parties and the public.

Question 4. Do you agree that FRC should become the independent auditor oversight body with respect to listed entities in Hong Kong by enlarging its regulatory remit?

We have no firm view on this question other than to suggest that the FRC is probably best placed to assume this role, given its current responsibilities.

Question 5(a). Do you agree that a listed entity auditor must be a practice unit as defined under the existing PAO and a fit and proper person to be registered as a listed entity auditor?

Yes. We agree that a listed entity auditor must be a practice unit as defined under the existing PAO and a fit and proper person.

(b). If yes, do you agree that for the purpose of the reform, there should be no change to the existing qualification and experience requirements for considering whether a person is fit and proper to be registered as a listed entity auditor, i.e. by reference to the existing fit and proper test for becoming a CPA?

We agree that the existing fit and proper test for becoming a CPA should provide adequate qualification and experience requirements.

Question 6(a). Do you agree that in order for an application for registration as a listed entity auditor to be approved, the individuals who are authorised by the auditor to perform the roles of an audit engagement authorised person, an

engagement quality control reviewer or a quality control system responsible person should be fit and proper persons to perform such roles?

We agree that persons performing these roles should be fit and proper persons.

(b). If so, do you agree that for the purpose of the reform, there should be no change to the existing qualification and experience requirements for individuals taking up such roles with respect to a registered listed entity auditor when considering whether they are fit and proper to perform those roles?

We agree.

Question 7. Do you agree that an individual, partnership or body corporate who wishes to enter into an audit engagement with a listed entity in Hong Kong should be required to register as a listed entity auditor, and that it shall be a criminal offence if an unregistered person entered into an audit engagement with a listed entity?

Yes, because the regulatory regime for listed company auditors in Hong Kong will differ from the regulatory regime for non-listed companies and therefore they need to be identified. Separate registration is essential to ensure that listed company auditors fall within the listed company audit regulatory regime.

Question 8(a). Do you agree that HKICPA Registrar should be assigned the role of Registrar of Listed Entity Auditors and be vested with the registration functions and powers as outlined in paragraph 3.23, and FRC should exercise oversight through arrangements as proposed in paragraph 3.24?

We see no problem with the HKICPA Registrar being assigned the role of Registrar of Listed Entity Auditors, given the exercise of oversight by the FRC.

(b). Do you agree that FRC should publish the periodic reports received by the HKICPA Registrar as mentioned in paragraph 3.24(a) on its website, and provide information on the results of its quality review and the written directions given by it in its annual report?

Yes.

Question 9. Do you agree that any person subject to a registration decision by the HKICPA Registrar may appeal against the decision, and any such appeal should be handled by an appeal mechanism which is independent of both the HKICPA Registrar and FRC?

We endorse the proposal that appeals against the decisions of the HKICPA Registrar should be heard by a body that is independent of both HKICPA and

the FRC. This should better meet the needs of natural justice and may minimise the possibility of a judicial review of the Registrar's decision. In addition, it may be appropriate to permit appeals to be first heard by the FRC before they are referred to an independent body, in order to minimise the number of appeals heard by the independent body.

Question 10. Do you agree with the proposal that registration shall remain in force until 1 January in the year following the year in which the auditor was so registered, and each registration is subject to annual renewal?

We agree that registration should be renewed annually because it provides an opportunity to review and update information on the register and enables periodic regulatory checks to be made on the continuing eligibility of the audit unit.

Question 11. Do you agree that the register of listed entity auditors should include the types of information on each registered listed entity auditor as proposed in paragraph 3.27?

Yes, the types of information proposed in para 3.27 are broadly consistent with public audit registers in many other jurisdictions. However, many registers do not list quality control reviewers or the individual responsible for the firm's system of quality control.

Question 12. Do you agree that FRC should be vested with statutory powers to take over SFC/HKEx's existing roles in receiving and making decisions on applications for recognising overseas auditors of specific overseas entities which have been approved for listing in Hong Kong on a case-by-case basis?

We agree that FRC should be vested with statutory powers to take over SFC/HKEx's existing roles in receiving and making decisions on applications for recognising overseas auditors of specific overseas entities which have been approved for listing in Hong Kong on a case-by-case basis.

Question 13. Do you agree that an applicant must meet the criteria as proposed in paragraph 3.30 for being recognised as an overseas auditor of the overseas entity listed in Hong Kong as set out in its application?

We agree that an applicant must meet the criteria as proposed in paragraph 3.30 for being recognised as an overseas auditor of the overseas entity. However, it is far from clear how the FRC will make the assessment required by para 3.30 (c), that the auditor must demonstrate that it has adequate

resources and possesses the capability to perform the audit of the relevant overseas entity listed in Hong Kong.

In addition to the criteria proposed in paragraph 3.30, we believe that the FRC should seek a reference from the audit regulator in the jurisdiction where the auditor is based and only register the auditor if the reference received is considered satisfactory.

Furthermore, we recommend that the FRC takes additional steps to assess the effectiveness of the system of audit regulation in the jurisdiction where the overseas audit firm is based, to assess whether the reference received can be considered to be reliable. We would draw your attention to the E U arrangements for Third Country Audit Entities under which assessments are made of the system of audit regulation in third countries and which the FRC might find useful in drawing its own conclusions.

http://ec.europa.eu/internal_market/auditing/relations/index_en.htm#maincontentSec13

Question 14. Do you agree that the recognition of an overseas auditor of an overseas entity listed in Hong Kong should remain in force until the following 1 January or the time when the overseas auditor ceases to be the auditor of the listed entity in question, whichever is earlier, subject to renewal of the recognition?

We agree with the proposal.

Question 15. Do you agree that the HKICPA Registrar shall maintain and update a list of overseas auditors who were recognised by FRC for entering into audit engagements with specific overseas entities listed in Hong Kong, and make available for public inspection/publish on HKICPA's website the list?

Including these auditors, with the names of issuers of their audit engagements on the Register may assist transparency. It is important to note that they will not be permitted to accept appointment as auditor to HK listed entities without the prior approval of the FRC on a case-by-case basis.

Question 16(a). Do you agree that HKICPA should continue to perform its statutory functions and exercise its statutory powers with regard to setting CPD requirements for listed entity auditors, subject to independent oversight by FRC in accordance with paragraph 4.6?

Yes. While CPD is important we do not see that CPD requirements for listed entity auditors should vary significantly from the CPD requirements for auditors of non-listed entities.

However, CPD requirements for listed entity auditors must not be so restrictive as to make it particularly difficult for non-Hong Kong auditors of foreign entities listed in Hong Kong to comply with the requirements.

(b). Do you agree that FRC should publish the periodic reports received by it as mentioned in paragraph 4.6(a) on its website, and provide information on the results of its quality review and the written directions given by it in its annual report?

Yes.

Question 17(a). Do you agree that HKICPA should continue to perform its statutory functions and exercise its statutory powers in specifying standards on professional ethics, auditing and assurance to be observed, maintained or otherwise applied by CPAs (practising), and FRC should exercise oversight of the performance of such functions and the exercise of such powers by HKICPA which are applicable to listed entity auditors as proposed in the arrangements set out in paragraph 5.8?

While we have no strong view on whether standards should be set by the FRC or HKICPA under FRC oversight, we do believe that accountants should not dominate the committees that adopt standards on ethics and auditing. These committees should contain a mix of accountants and non-accountants. We draw your attention to the Codes and Standards Committee of the UK FRC, where only four of the nine members are described as qualified accountants. If standards are to be set by an HKICPA committee under the oversight of the FRC, we would expect that a representative of the FRC would attend meetings of that committee as part of FRC's oversight.

(b). Do you agree that FRC should publish the periodic reports received by it as mentioned in paragraph 5.8(a) on its website, and provide information on the results of its quality review and the written instructions given by it in its annual report?

Yes

Question 18. Do you agree that HKICPA and FRC should establish procedures to ensure that the HKICPA Council would duly take into account FRC's views before it makes any decision on the setting of standards on professional ethics, auditing and assurance in relation to listed entity auditors?

We agree with the proposal and reiterate that accountants should not dominate the committees or bodies that adopt standards on ethics and auditing. These committees should contain a mix of accountants and non-accountants and be free from influence by the HKICPA Council. We draw your attention to the Codes and Standards Committee of the UK FRC, where only four of the nine members are described as qualified accountants.

Question 19. Do you agree with the proposal to transfer statutory functions for conducting recurring inspections of listed entity auditors in respect of their listed entity audit engagements from HKICPA to FRC, with FRC being given the necessary powers as set out in paragraph 6.13 (which are similar to the powers which HKICPA is equipped with under its practice review programme)?

We agree that this proposal is essential to ensure that inspections are undertaken independently of the profession.

Question 20. Do you agree that FRC's inspection programme should adopt the statutory procedures as set out in paragraph 6.14 with reference to the existing arrangements for HKICPA's practice review programme?

Yes. In addition, the FRC should adopt all the requirements set out in the Statement of Membership Obligation No 1 *Quality Assurance* of the International Federation of Accountants, which is internationally recognised as best practice, in performing inspections.

Question 21. Do you agree that FRC may delegate its inspection functions and relevant powers to committees formed under its auspices?

We agree that the FRC should be able to delegate its inspection functions to committees formed under its auspices, but they must not be dominated by accountants, otherwise they will not be considered independent. It should be noted that when regulatory action may be required as a result of the outcome of an ACCA inspection to firms it regulates under the UK Companies Act 2006, the action is determined by ACCA's Admissions and Licensing Committee, in which non-accountants form a majority.

Question 22. What are your views on whether FRC should be allowed to delegate to HKICPA its functions and powers to inspect listed entity auditors in respect of their listed entity audit engagements; and if so, what checks-and-balances measures should be introduced to ensure proper delegation and accountability for the quality of the work so delegated to HKICPA?

We oppose any delegation to HKICPA of any inspection functions for public interest entities because this would jeopardise the independence of the process.

While the references in paras 6.10 and 6.16 to the UK FRC delegating some inspections of listed entity audits to the accounting bodies is correct, this will be discontinued when the new EU Regulation 537/2014 comes into effect in 2016. Article 24 of this regulation will prohibit the delegation of inspections of listed entity audits to the accountancy bodies.

Question 23. Do you agree that FRC reviewers should be given the proposed statutory powers as set out in paragraph 6.17 in relation to their inspections?

We agree that FRC reviewers should be given the proposed statutory powers as set out in paragraph 6.17, to enable them to undertake inspections effectively.

Question 24(a). Do you agree with the proposal to provide for criminal offences against a person who fails to comply with the requirements in relation to FRC's inspections?

We agree with this proposal.

(b). If so, do you agree that the provisions on such criminal offences should be modelled on the existing provisions in the FRCO concerning failure to comply with requirements in relation to an investigation into relevant irregularities?

We agree with this proposal.

Question 25. Do you agree that the secrecy provisions in the PAO and the FRCO should be suitably amended to provide that both HKICPA and FRC could share their inspection results with each other to facilitate them to coordinate their inspection activities?

We believe it is essential that FRC and HKICPA coordinate their inspections to ensure they are conducted efficiently and effectively. We therefore agree with the proposed changes to the secrecy provisions of the PAO and the FRCO.

Question 26. Do you agree that FRC should continue to be responsible for conducting independent investigations into relevant irregularities by listed entity auditors?

We agree that the FRC should continue to be responsible for these investigations to ensure that they are conducted independently.

Question 27. Do you agree that a disciplinary action may be imposed on a listed entity auditor, a person approved to be its audit engagement authorised

person and/or a person approved to be its engagement quality control reviewer if the listed entity auditor and/or the person concerned (as the case maybe) is proved to have committed an irregularity in relation to an audit engagement?

We agree with the proposal.

Question 28. Do you agree that the definition of “irregularity” under the new regulatory regime should be refined to cover irregularities in respect of all audit and assurance engagements undertaken by listed entity auditors with listed entities as required under the Listing Rules?

We agree with the proposal because non-compliance with the Listing Rules may have an adverse impact on investors.

Question 29. What is your view on whether the new regime should specifically provide that the individual/individuals who assume(s) ultimate responsibility for the system of quality control of a practice unit would be held accountable for the absence/systemic failure of such system, and whether it should stipulate expressly that such responsible person(s) shall be the practice unit’s chief executive officer (or equivalent) or, if appropriate, members of the practice unit’s managing board of partners (or equivalent)?

We agree with this proposal. We believe that the practice unit’s chief executive or managing board will have the necessary authority and therefore should be called to account for the absence/systemic failure of the quality control system.

Question 30. Do you agree that FRC, as the future independent auditor oversight body, should be vested with disciplinary powers, including powers to make decisions on disciplinary cases, concerning listed entity auditors, subject to the requirements for ensuring fairness and a due process as proposed in paragraphs 7.21 to 7.24?

We agree absolutely that the FRC should have these powers. However, in order to ensure the integrity and credibility of the arrangements and that persons against whom disciplinary action is to be taken are treated fairly and justly, there must be a proper separation of the functions of investigation (including quality assurance) and discipline.

We understand from the proposals that the board of the FRC, which is also responsible for quality assurance and investigations, will take decisions on disciplinary cases. We believe this arrangement must be avoided and recommend that, as a minimum, the FRC should be required to operate its disciplinary committee on a panel basis to ensure that any decision is taken without conflicts of interest and the committee should adopt procedures that follow the laws of natural justice. The decision to appoint persons to the panel

and a decision to appoint members of the panel to constitute a disciplinary committee must both be made independently and free from influence of the FRC board.

Question 31. Do you agree that FRC should be empowered to exercise the range of disciplinary powers on a person subject to disciplinary action outlined in paragraph 7.27?

Yes.

Question 32. Do you agree that FRC should be required by law to issue guidelines to indicate the manner in which it exercises its power to order a person subject to disciplinary action to pay a pecuniary penalty, and to have regard to the issued guidelines when exercising such power?

We believe this proposal is essential in the interests of natural justice and transparency. In fact we believe that the FRC should be required to issue guidelines on the exercise of all disciplinary sanctions. We draw your attention to the guidance issued by the UK FRC on this matter.

Question 33. Do you agree that any pecuniary penalty paid to or recovered by FRC would be paid by FRC into the Government general revenue?

We agree that the payment of penalties to the Government general revenue would remove any allegation that the level of penalty is influenced by self-interest on the part of the FRC.

Question 34. Do you agree that FRC may enter into a resolution with the person subject to disciplinary action at any time it is contemplating exercising its disciplinary power, and in exercising such power, FRC must consider it appropriate to do so in the interest of the investing public or in the public interest?

We agree that entering into a resolution with the person subject to disciplinary action may be a sensible and cost effective way forward. However, in exercising its discretion the FRC must at all times consider the public interest to be paramount and there will therefore be occasions when it will not be appropriate to enter into a resolution.

Question 35. Do you agree that any amount paid to or recovered by FRC arising from a resolution would be paid by FRC into the Government general revenue?

Yes, payment into the Government general revenue would ensure the impartiality of the resolution.

Question 36. Do you agree that a new independent appeals tribunal should be set up for hearing appeals in respect of registration decisions made by the HKICPA Registrar and disciplinary decisions made by FRC?

Yes. We believe that a new independent appeals tribunal should offer a less expensive and less time consuming avenue for those that wish to dispute registration and disciplinary decisions.

Question 37(a). Do you agree that a person who disagrees with a registration decision made in respect of him or is aggrieved by a disciplinary decision made in respect of him may apply to the new independent appeals tribunal for a review of the decision within 21 days after notice of the relevant decision has been served upon him?

We agree with the proposal. However, we believe that the right to appeal should only be granted on certain grounds and should not constitute a complete re-hearing of the case decided by the FRC merely because the relevant person is unhappy with that decision. In the interests of justice the relevant person should receive a written statement from the FRC setting out the reasons for its decision and for the sanction imposed. Without this information, the relevant person will not be in a position to decide whether he or she should apply for permission to appeal.

(b). If so, do you agree that the independent appeals tribunal may, upon application by the relevant person, grant an extension to application for review of a specified decision, and that such extension should only be granted after the applicant and FRC have been given a reasonable opportunity to be heard on the proposed extension and the independent appeals tribunal is satisfied that there is a good cause for granting the extension?

We agree with the proposal. However, we are aware that appellants may seek to stay the application of an order by appealing and delaying that appeal from being heard. We therefore suggest that there be a mechanism for the FRC, or the appeals tribunal, to have the power to impose interim orders to protect the public until the appeal is determined.

Question 38. Do you agree with the composition of the independent appeals tribunal as proposed in paragraph 8.6, i.e. a chairman who is a person qualified for appointment as a judge of the High Court and two members who are not public officers, all to be appointed by the Chief Executive?

We agree with the proposal.

Question 39. Do you agree that the independent appeals tribunal may exercise the proposed powers as outlined in paragraph 8.7 in the review proceedings?

We agree with this proposal except that silence, or failure to provide information, should not, in itself, constitute contempt in the interests of natural justice.

Question 40. Do you agree that sittings of the independent appeals tribunal should be held in public unless in the interests of justice it determines otherwise?

We agree with this proposal. Hearings in public provide transparency and therefore engender public confidence in the fairness of the process.

Question 41(a). Do you agree that a party to the appeal who is dissatisfied with a determination of the independent appeals tribunal may further appeal to the Court of Appeal on a question of law, fact, or mixed law and fact?

We agree that a party to the appeal who is dissatisfied with a determination of the independent appeals tribunal may further appeal to the Court of Appeal on a question of both facts and law on the basis of justice.

(b). If so, do you agree that no appeal to the Court of Appeal may be made unless leave to appeal has been granted by the same Court, and the leave may only be granted if the Court of Appeal is satisfied that the appeal has a reasonable prospect of success or there is some other reason in the interests of justice why the appeal should be heard?

We agree with this proposal.

Question 42. Do you agree that under the new regulatory regime, FRC should be funded by way of introducing three new levies on (a) listed entities; (b) securities transactions; and (c) listed entity auditors such that they will each provide roughly equal contributions to FRC i.e. one third from listed entities, one third from securities investors and one third from listed entity auditors?

For ease of administration, FRC should be funded directly by HKEx who will determine the various levies. With an efficient market, the cost will be recharged to various relevant market participants. However, if the system of regulation is extended to cover oversight by the FRC of HKICPA's regulatory activities as suggested in the response to question 1, HKICPA should also make a contribution to the FRC's costs

Question 43. Do you agree that –
(a) the levy on listed entities should be based on the prevailing formula under which listed entities pay their annual listing fees to HKEx, and that the levy should be collected by HKEx on behalf of FRC;

- (b) the levy on securities transactions should be based on the modus operandi for the existing levy charged by SFC under the Securities and Futures Ordinance, and that the levy should be collected by SFC on behalf of FRC; and
- (c) the levy on listed entity auditors should be directly proportional to the number of listed entity audit engagements entered into by the listed entity auditors, and that the levy should be collected by the HKICPA Registrar on behalf of FRC?

Please refer to our response to question 42.

Question 44. Do you agree that the three levies should be stipulated in subsidiary legislation subject to negative vetting by the Legislative Council?

Please refer to our response to question 42.

Question 45. Do you agree that FRC should be required to review the levels of the three levies once its reserve has reached a level equivalent to 24 months of its operating expense, after deducting depreciation and all provisions?

We agree that FRC should be required to review the funding from HKEx once its reserve has reached a level equivalent to 24 months of its operating expense, after deducting depreciation and all provisions.

Question 46(a). Do you agree with the proposed new composition of FRC membership, i.e. not fewer than seven members appointed by the Chief Executive, together with the FRC Chief Executive Officer as an ex-officio member, and abolishing the existing arrangements for the nomination of FRC members and for the Registrar of Companies to be an ex-officio member as set out in paragraph 10.6?

We agree with the proposal.

(b). Do you agree that there should be at least two persons who possess knowledge of and experience in the auditing of Hong Kong listed entities out of the FRC members to be appointed by the Chief Executive?

We agree with the proposal.

Question 47. Do you agree that FRC will be required to have a chairman and a majority of members who are non-practitioners, with a non-practitioner being defined as a person who (a) is not, or has not during the previous three years been, a CPA (practising); and (b) is not, or has not during the previous three years been, a partner, director, agent or employee of a practice unit?

We believe that the proposal should go further and require the FRC to comprise a majority of non-accountants, to demonstrate its independence of both the accounting and auditing professions. For example, the UK FRC board of directors comprises 15 people of whom only 5 are qualified accountants. Similarly, the US PCAOB counts only two accountants among its five board members.