



Dear Assignment / News / Business Section Editor

Hong Kong Institute of CPAs stands against provision that causes serious damages to auditors

(HONG KONG, 13 June 2012) — Today the Hong Kong Institute of CPAs put forward its third submission against clause 399 of Companies Amendment Bill, which for the first time would introduce criminal offences on auditors for an omission in its professional work without need to prove any dishonest intent.

The bill is now going through final hearings at the Legislative Council.

Winnie C. W. Cheung, chief executive and registrar of the Institute, says, "The consequence and harm done for the profession and Hong Kong will be huge if the clause is passed. Clause 399 will unduly lower the barriers to prosecution and bring great risks to good people in the profession. Talented young members of the profession will seek other career options with fewer risks and the quality of the profession will suffer. The consequence will not be in the interests of the market or the community in Hong Kong."

The Institute's position is to remove the clause altogether. It has also proposed a way to reduce the damage and alleviate the uncertainty the clause creates. It asks, in its submission, to change the prosecution threshold from "knowingly or recklessly" omitting a required statement from the audit report to making such an omission "dishonestly or with intent to defraud."

The Institute points out that the policy intention behind the provision is not clear and would result in driving business away from Hong Kong.

The Institute points out in its submission that clause 399 will not apply to non-Hong Kong companies which represent 75 percent of the market capitalization of the Hong Kong stock exchange, and will create an unlevel playing field for auditors of Hong Kong companies with auditors of non-Hong Kong companies. Further, it will also not cover non-Hong Kong companies audited by non-Hong Kong auditors, which is becoming a trend.

Keith Pogson, president of the Institute says, "Despite the good intent for the Companies Ordinance Rewrite to bring Hong Kong company law in line with international norms, the effect of clause 399 could drive more business offshore and create unnecessary barriers for business operations and companies set up in Hong Kong."

The Institute's submission says it regrets that the scope of the clause has been extended in its Committee Stage Amendment. The amended wording will make relatively junior people in the profession liable for prosecution.

"Imposing a criminal liability on the managerial positions will only aggravate the job pressures and push aspiring young professionals away from public accounting service. It will gravely impede the healthy development of the audit profession," says Cheung.

In the Institute's submission, it urges the Bills Committee to defer enactment of the provision until a more comprehensive review of the legislation relating to criminal and civil liability of auditors has been conducted.

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About the Hong Kong Institute of CPAs

The Hong Kong Institute of CPAs is the only body authorized by law to register and grant practising certificates to certified public accountants in Hong Kong. The Institute has more than 33,000 members and 16,000 registered students. Members of the Institute are entitled to the description *certified public accountant* and to the designation *CPA*.

The Hong Kong Institute of CPAs evolved from the Hong Kong Society of Accountants, which was established on 1 January 1973.

The Institute operates under the Professional Accountants Ordinance and works in the public interest. The Institute has wide-ranging responsibilities, including assuring the quality of entry into the profession through its postgraduate qualification programme and promulgating financial reporting, auditing and ethical standards in Hong Kong. The Institute has responsibility for regulating and promoting efficient accounting practices in Hong Kong to safeguard its leadership as an international financial centre.

The Hong Kong Institute of CPAs is a member of the Global Accounting Alliance - an alliance of the world's leading professional accountancy bodies, which was formed in 2005. The GAA promotes quality services, collaborates on important international issues and works with national regulators, governments and stakeholders.

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