



By email (consultation@pmsahk.org.hk) and post

18 January 2019

Our Ref.: C/MIS(1), M119816

Property Management Services Authority,
Units 904-05, 9/F., Sunlight Tower,
248, Queens Road East,
Wan Chai,
Hong Kong

Dear Sirs,

Re. Consultation on Licensing Regime under the Property Management Services Ordinance

The Hong Kong Institute of Certified Public Accountants ("HKICPA") has reviewed the consultation proposals on a licensing regime for property management services under the Property Management Services Ordinance (Cap. 626) ("PMSO") and has concerns about certain proposals as explained below.

We have also seen the submission of the Law Society of Hong Kong and, while the situation of lawyers and accountants in Hong Kong is not necessarily the same, we share some of the concerns raised by the Law Society.

Requirement for licensing of property management practitioners

The prohibition on an unlicensed person acting a property management practitioner ("PMP") under section 6 of the PMSO and the inclusion of finance and asset management relating to a property as a specified property management service under Schedule 1 of the ordinance, could have a material impact on accountants in Hong Kong, including members of the HKICPA.

According to our understanding of the PSMO and the consultation proposals, which contain further details of the licensing regime, a qualified accountant working in a property management company ("PMC") who may be, e.g., supervising staff in relation to preparing the accounts of a property whose owners are a client of the PMC, would need to apply for licence to be a PMP and would be subject to the regulation of the Property Management Services Authority ("PSMA"). While this may be an unintended consequence of the proposals, it would mean an accountant performing core accounting work, who is very likely to be subject to the extensive regulation of a professional accountancy body, such as the HKICPA, could find him/herself subject to the overlapping regulation of another authority.

Under the proposals, the licensing criteria include academic and professional qualifications, as well as minimum experience requirements. Being a member of the HKICPA would apparently not meet the requirements of professional qualifications, as it is necessary to be a member of a property management-related professional body. While other less-directly-related professional bodies may apply to become "recognised professional bodies", as opposed to "specified professional bodies", if



they successfully apply, they will then also subject themselves to the overarching regulatory regime of the PSMA. This would not make a great deal of sense for the HKICPA, which is itself a statutory body, set up under the Professional Accountants Ordinance (Cap. 50) ("PAO"), whose objects include:

- to regulate the practice of the accountancy profession;
- to conduct examinations and act in such other manner as may be necessary to ascertain whether persons are qualified to be admitted to the register;
- to discourage dishonourable conduct and practices by certified public accountants ("CPAs"), and for this purpose to hold inquiries into the conduct of CPAs, firms and corporate practices;
- to represent the views of the profession and to preserve and maintain its reputation, integrity and status;
- to take such action as the HKICPA considers necessary in any matter affecting the professional interests of the accountancy profession.

(PAO, section 7)

In addition, the Council of the HKICPA has a full range of powers that include to:

- Issue or specify any—
 - ✧ statement of professional ethics; or
 - ✧ standards of accounting, auditing and assurance practices, required to be observed, maintained or otherwise applied by any CPA.
- Do anything necessary for the better carrying out of the objects of the HKICPA.

(PAO, sections 18 and 18A)

The PAO also contains extensive and detailed regulatory provisions, covering matters such as the carrying out of practice reviews of CPA firms, conducting investigation and disciplinary procedures, and sanctioning members and CPA practices.

The regulatory role of the HKICPA in relation to the accountancy profession in Hong Kong is widely recognised both locally and internationally, and our role is not limited to audit and assurance and accounts preparation. For example, the recently amended Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615) designates the HKICPA as a regulatory body for anti-money laundering/counter terrorist financing compliance in relation to "accounting professionals", the scope which includes CPA practices when they conduct trust or company services (see Cap. 615, Schedule 1 Part 2 and section 5A).

Having regard to the above, we do not see the need, and we would not regard it as appropriate, for the PMSO to seek to regulate our members when they carry out property management services specified under Schedule 1 of the PMSO, particularly the types of service described in the consultation proposals as being within the scope of the category 4 property management service, "finance and asset management relating to a property".

We would suggest, therefore, that it be clarified that members of the HKICPA are not intended to be covered by the licensing requirement for PMPs, at least when

they are carrying out a category 4 property management service; or, alternatively, providing that they be exempted from the requirement to obtain a licence under such circumstances.

Requirement for licensing of property management companies

A second concern is, for the time being, more potential than actual. Section 3 of the PMSO provides that the PSMA "may, by regulation, prescribe a service falling within a category of services set out in Schedule 1 as a property management service". The services must be prescribed with reference to the categories of services set out in Schedule 1 (see below), and more than one type of service may be prescribed under a category.

Category of services

1. General management services relating to a property.
2. Management of the environment of a property.
3. Repair, maintenance and improvement of a property.
4. Finance and asset management relating to a property.
5. Facility management relating to a property.
6. Human resources management relating to personnel involved in the management of a property.
7. Legal services relating to the management of a property.

Therefore, the PSMA is empowered to prescribe what specific types of service are covered under the seven categories above and it may also prescribe subcategories. It is noted, for example, that the consultation proposals include a proposal to subdivide the category 2 service into four subcategories. It is our understanding that, if an entity provides more than one category of service, and this includes subcategories, it is required to apply for a PMC licence.

The Consultation Paper (Chapter 5, section 1.2) indicates that the service of "Finance and asset management relating to a property" is proposed to be prescribed in the following terms:

This category is on financial management and budget preparation relating to the management of a property. Examples include but are not limited to collection of management fees, preparation and submission of management accounts (including income and expenditure accounts, balance sheets, budgets and auditor's reports of a building) and calculation of expenditure on service contracts as well as income and expenditure in special accounts.

From this, it can be seen that examples of various different kinds of service are included within this category. Although, currently, it is not proposed to further subdivide the category 4 property management service, were the PSMA to propose to subdivide this service into two or more subcategories in the future, technically, a CPA firm providing accounting, auditing and other related services to a client that owns relevant properties, might be required to obtain a PMC licence and, as an entity, be subject to the regulatory oversight of the PMSA, in addition to the regulatory regime of HKICPA. It should be explained that our regulatory oversight covers not only individual members of the HKICPA, of which there are currently over 43,500, but also "practice units", including firms of CPAs practising and corporate CPA practices, of which there are around 1300 and 600 respectively.



In view of the above, the consultation proposals, which implement a licensing regime for PMCs, could potentially impose an additional regulatory regime on CPA practices in future, which would not only be burdensome but, in our view, inappropriate.

For the reasons explained above, we would object to any proposal that a CPA practice that carries out a specified property management service, and in particular any category 4 service, should be required obtain a PMC licence.

In conclusion, therefore, we would suggest that it should be made clear that either:

- (a) Individual members of the HKICPA should not be regarded as being within the scope of the PMSO licensing regime for PMPs; and

CPA practices should not be regarded as being within the scope of the PMSO licensing regime for PMCs; or

- (b) they should be specifically exempted from the requirement to obtain a licence,

when they are providing a specified property management service, in particular, when they are carrying out a finance and asset management service relating to a property.

Should you have any questions of this submission, or wish to meet to discuss our concerns, please feel free to contact me at peter@hkiipa.org.hk or on 2287 7084.

Yours faithfully,

Peter Tisman
Director, Advocacy and Practice Development

PMT/pk