U.K. accounting expert calls for liability reform in Hong Kong

Peter Wyman says a lack of reform will pose risk to Hong Kong's capital markets

A top British financial reporting expert said Hong Kong's economy is risking severe instability by not moving forward on auditors' liability reform.

Peter Wyman, global leader for public policy and regulatory affairs at PricewaterhouseCoopers, told *A Plus* during a recent visit here that the city has fallen far behind other financial capitals in limiting liability, a problem that has grown more pressing given the global economic downturn.

"The world is moving quite fast. Years ago, there were few countries that had liability reform for auditors. That's changing fast now, though, and Hong Kong is getting left behind," he said.

Hong Kong doesn't have any kind of liability reform, while nearly all the major world markets have set a cap on compensation in the event of a lawsuit against an auditor. For example, the United States allows accounting firms to set up liability partnerships, while Britain lets auditors sign agreements with clients to pre-set the cap. Germany has a maximum compensation cap at €9 million per corporate failure, while Belgium has a €12 million cap.

Hong Kong's stock market will be in trouble if one or two of the big accounting firms go bankrupt, Wyman warned. "Imagine the damage to confidence in Hong Kong's capital markets – once that happens it will damage Hong Kong's economy."

The Institute has been lobbying the Hong Kong government for years to put in place proportionate liability, under which defendants would only pay a portion of the loss for which they were responsible in the event of a corporate failure or fraud.

The Institute has also proposed capping damages and limited liability partnerships, in which one partner is not responsible or liable for another partner's negligence or misconduct. The government has put off all past requests.

Institute President Paul F. Winkelmann said the lack of liability limitations coupled with the fact that Hong Kong is an extremely open market leaves it hugely exposed to damages from lawsuits. "It has all of the China players attracting U.S. investors through the Hong Kong market, and I think regardless of the downturn it leaves Hong Kong extremely vulnerable to any failure of a firm," he said.

Wyman met with government officials, executives of the Hong Kong Exchanges and Clearing Ltd. and the Securities and Futures Commission to discuss liability reform. He said Hong Kong could ideally benefit from a cap similar to Australia's rule of 10 times the auditing fee but no more than A$80 million in compensation claims.

New immigration business opportunity for Hong Kong CPAs

Hong Kong immigration authorities have announced a new programme that allows Hong Kong CPAs to complete applications for high net-worth individuals wanting to qualify for immigration on the basis of their net worth.

The Immigration Department announced on 16 March that the new arrangement will shorten the processing time of applications submitted under the Capital Investment Entrant Scheme.

According to the rules of the new plan, applicants have to meet the eligibility criteria that they have net assets or net equity with a market value of no less than HK$6.5 million throughout the two years preceding the date in which the application was submitted.

Those applicants may now arrange at their own cost a Hong Kong CPA to issue a report demonstrating that they meet those requirements. The Institute has been working closely with the immigration department to develop guidance for this new practice.