

MEMBERS' HANDBOOK

Update No. 278

(Issued 26 September 2022)

Document Reference and Title	Instructions	Explanations
VOLUME I		
Contents of Volume I	Discard existing pages i and ii and replace with revised pages i and ii.	Revised contents page
PROFESSIONAL ACCOUNTANTS ORDINANCE, BY-LAWS, RULES, GUIDELINES		
<i>Statement 1.102 Corporate Practices (Registration) Rules (January 2019)</i>	Discard Statement 1.102 Corporate Practices (Registration) Rules (January 2019).	Notes
Statement 1.102 Corporate Practices (Model Articles of Association) (October 2022)	Discard existing Statement 1.102 Schedule to the Corporate Practices (Registration) Rules "Corporate Practices (Model Articles of Association)" (January 2019) and replace it with Statement 1.102 Corporate Practices (Model Articles of Association) (October 2022).	Notes
Statement 1.103 Corporate Practices (Professional Indemnity) Rules (October 2022)	Discard Statement 1.103 Corporate Practices (Professional Indemnity) Rules (January 2019) and replace it with the October 2022 version.	Notes

Notes:

- The further regulatory reform introduced by the Financial Reporting Council (Amendment) Ordinance 2021 will take effect on 1 October 2022 ("Commencement Date"). After the Commencement Date, registration of corporate practice will be transferred to the Accounting and Financial Reporting Council ("AFRC").

As the power to register corporate practices will be transferred to AFRC after the Commencement Date, the Institute will not have jurisdiction on the Corporate Practice (Registration) Rules ("CPRR"). As such, the CPRR will be repealed on the Commencement Date.

2. Under section 20AAZX(6) of the AFRC Ordinance, the articles of association of the corporate practices must comply with the requirements made by the HKICPA. As such, the Corporate Practices (Model Articles of Association) be retained as a standalone document with the following revisions:
 - (i) Renaming the governing body from the HKICPA to the AFRC;
 - (ii) Removing references to “authorised persons”, which are not provided for under the AFRC Ordinance;
 - (iii) Changing the requirement of at least two-third of the shareholders and directors to be practising certificate holders to a proportion as specified by the AFRC; and
 - (iv) Adding the relevant definitions under the interpretation section.
3. Section 20AAZY of the AFRC Ordinance stipulates that the professional indemnity insurance should be provided on terms approved by the HKICPA and that the insurer should also be approved by the HKICPA. As such, the Corporate Practices (Professional Indemnity) Rules will be retained with revisions made to (i) include references to the AFRC, where appropriate and (ii) remove references to “authorised persons”.
4. Statement 1.102 (Revised) and Statement 1.103 (Revised) will be effective on 1 October 2022.



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(Updated to September 2022)

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Corporate Practices (Model Articles of Association)

The enclosed Model Articles of Association for Corporate Practices Qualified for Registration Under Section 20AAZX of the Accounting and Financial Reporting Council (AFRC) Ordinance (Cap. 588, Laws of Hong Kong) have been drawn up by the solicitors of the Hong Kong Institute of Certified Public Accountants (the HKICPA) and issued by the Council of the HKICPA on 1 October 2022 pursuant to section 51 of the Professional Accountants Ordinance Cap. 50 (PAO).

Adherence to the Model Articles would ensure conformance with the requirement of the AFRC regarding the constitution of the corporate practice. However, the HKICPA accepts no responsibility for the Articles being suitably drafted as regards the interests of the members of the corporate practice or as being suitable in a particular situation. The model is issued on the understanding that the HKICPA is not engaged in giving legal advice. If legal assistance is required as regards the particular interests of the corporate practice or its members, the advice of a competent professional person should be sought. Provided always that any addition to or variation from the Model Articles does not contradict or operate inconsistently with the provisions of the Model Articles.

MODEL ARTICLES OF ASSOCIATION

FOR CORPORATE PRACTICES QUALIFIED FOR REGISTRATION UNDER SECTION 20AAZX of the ACCOUNTING AND FINANCIAL REPORTING COUNCIL (AFRC) ORDINANCE (CAP. 588, LAWS OF HONG KONG)

THE COMPANIES ORDINANCE (CAP. 622, LAWS OF HONG KONG)

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION OF

[_____]

Preliminary

1. (1) Part I (comprising articles 4 – 10) below shall apply to the company regardless of the number of the company's members.

(2) In the event that, for any reason and in any manner whatsoever, the company has, for the time being, one member only, article 2 and part II (comprising articles 11 – 42) below shall apply to the company.

(3) In the event that, for any reason and in any manner whatsoever, the company has, for the time being, two or more members, article 3 and part III (comprising articles 43 – 62) shall apply to the company.
2. The articles contained in Schedule 2 of the Companies (Model Articles) Notice (Cap. 622H) ("Schedule 2"), a subsidiary legislation of the Companies Ordinance (Cap. 622, Laws of Hong Kong) ("the Ordinance") shall apply to the company, save and except in so far as they are hereby expressly excluded or are, in any way, inconsistent or conflict with the articles set out hereinbelow. In particular, but without limiting the generality of the foregoing, articles 2, 7-15, 16(3-8), 19, 22-25, 28-30, 34(2-4), 38-44, 45(2-4), 46(2), 47, 59(3), 63(1), 64-68, 71-72, 74, 78(2) and 82 in Schedule 2 shall not apply to the company. Those articles contained in Schedule 2 shall (in the absence of any express provision to the contrary) apply to the company with such modification as may be necessary in relation to a company which has only one member and one director.
3. The articles contained in Schedule 2 of the Companies (Model Articles) Notice (Cap. 622H) ("Schedule 2"), a subsidiary legislation of the Companies Ordinance (Cap. 622, Laws of Hong Kong) ("the Ordinance") shall apply to the company, save and except in so far as they are hereby expressly excluded or are, in any way, inconsistent or conflict with the articles set out hereinbelow. In particular, but without limiting the generality of the foregoing, articles 2, 12, 15, 16(3-8), 20, 22, 23, 25, 28-30, 41, 63(1), 64-68, 71-72 and 82 in Schedule 2 shall not apply to the company.

9. The share capital and initial shareholdings on the company's formation is as follows:

Total Number of Shares Proposed to be Issued	Total Amount of Share Capital to be Subscribed by Founder Members	Total Amount to be Paid Up or to be Regarded as Paid Up on the Shares Proposed to be Issued	Total Amount to Remain Unpaid or to be Regarded as Unpaid on the Shares Proposed to be Issued
	[currency] (a)	[currency] (b)	[currency] (a) – (b)
[]	[]	[]	[]

10. The share capital to be subscribed by founder members is as follows:

Names, Addresses and Descriptions of Founder Members	Shares Proposed to be Issued to each Member	
	Number of Share(s)	Amount [currency]
(1) [] of [], []	[1]	[]
(2) [] of [], []	[1]	[]
	[2]	[]
	[2]	[]

Part II - Company with one member only:

Private Company

11. The company is a private company and accordingly:
- (1) the right to transfer shares is restricted in manner herein prescribed;
 - (2) the number of members of the company (exclusive of persons who are in the employment of the company and of persons who having been formerly in the employment of the company were while in such employment and have continued after the determination of such employment to be members of the company) is limited to 50;
 - (3) any invitation to the public to subscribe for any shares or debentures of the company is prohibited; and
 - (4) the company shall not have power to issue share warrants to bearer.

Share Capital

12. No person shall be eligible to become or remain the legal and/or beneficial owner of any share in the company unless he is:
- (1) a natural person;
 - (2) a certified public accountant (practising); and
 - (3) not prohibited from qualifying or acting as a director under the Ordinance
- AND a person eligible in the terms of this article is in these articles referred to as "an Eligible Person".
13. Notwithstanding anything to the contrary contained in these articles, the ultimate beneficial ownership of all the issued share capital of the company shall be vested in the sole member of the company.

Lien

14. Subject to any other articles contained herein, the company may sell, in such manner as the sole director thinks fit, any shares on which the company has a lien, but no sale shall be made unless such shares shall be sold to an Eligible Person nor unless a sum in respect of which the lien exists is presently payable, nor until the expiration of 14 days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

Transfer of Shares

15. Subject to such of the restrictions of these articles as may be applicable, a member may transfer all or any of his shares by instrument in writing in any usual or common form or any other form which the sole director may approve. For the avoidance of doubt, a member shall not be entitled to transfer any of his share(s) to any person other than an Eligible Person.
16. Save as set out in article 17 and subject to section 151 of the Ordinance, the sole director may in his sole and absolute discretion decline to register any transfer of

shares whether or not fully paid up without assigning any reason therefor and shall so decline if in his opinion the registration thereof would or might be in breach of any other articles contained herein.

Transmission of Shares

17. (1) In case of the death of a member, the legal personal representative(s) of the deceased shall be the only person(s) recognised by the company as having any title to the deceased's interest in his share(s) in the company.
- (2) Any person becoming entitled to a share in consequence of the death of a member shall, forthwith upon becoming so entitled and upon such evidence being produced as may from time to time properly be required by the directors and subject as hereinafter provided:
- (a) in case such person is, for the time being, an Eligible Person, elect either to be registered himself as holder of the share(s) owned by such deceased member or to have any Eligible Person(s) nominated by him registered as the transferee(s) thereof; or
 - (b) in case such person is, for the time being, not an Eligible Person nominate any Eligible Person(s) to be registered as the transferee(s) thereof,

and the directors in such cases may not decline or suspend registration of the transfer of the share(s).

- (3) If the person so becoming entitled and being an Eligible Person shall elect to be registered himself as the transferee of the relevant share(s), he shall deliver or send to the company a notice in writing signed by him stating that he so elects. If such person or the person so becoming entitled and not being an Eligible Person shall nominate any Eligible Person(s) to be so registered, he shall execute transfer(s) of the share(s) in favour of such Eligible Person(s). All the limitations, restrictions and provisions of these articles relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer(s) as aforesaid as if the death of the member had not occurred and the notice or transfer(s) were transfer(s) signed by that member, except that the directors may not decline or suspend registration of the transfer of the share(s).
- (4) In the event that, within a period of 60 days after the death of the member of the company, the person so becoming entitled and being an Eligible Person fails to deliver or send to the company a notice in writing signed by him stating that he has elected to be registered himself as the transferee of the relevant share(s) or the person so becoming entitled and not being an Eligible Person fails to execute transfer(s) of share(s) in favour of the Eligible Person(s) duly nominated by him to be so registered, such person shall be deemed to have duly appointed and authorised the reserve director (referred to in article 31) as his agent who shall immediately, for and on his behalf and with intent so as to bind him, (as the case may be) register such person as the transferee of the relevant share(s) by way of serving upon the company a notice in writing stating so or nominate any Eligible Person(s) to be so registered and execute transfer(s) of share(s) in favour of such Eligible Person(s), in any manner whatsoever as such agent may, in his sole and absolute discretion, think fit. Provided That, upon request in writing on the part of such person, being the person becoming entitled to the deceased's interest in article 17(1), the AFRC may, in its sole and absolute discretion, agree to extend such 60-day period for a further period as it may think fit.

- (5) A person becoming entitled to share(s) by reason of the death of the holder shall be entitled to the same dividends and other advantages (if any) to which he would be entitled if he were the registered holder of the share(s), except that he shall not, before being registered as a member in respect of the share(s), be entitled in respect of such share(s) to exercise any right conferred by membership in relation to meetings of the company.

Provided always that the directors may at any time give notice requiring any such person to elect either to be registered himself as the transferee of the share(s) or to transfer such share(s), and if the notice is not complied with within 90 days, the directors may thereafter withhold payment of all dividends, bonuses or other moneys (if any) payable in respect of the share(s) until the requirements of the notice have been complied with.

- (6) (a) In the event that a member of the company suffers from incapacity or disqualification and such incapacity or disqualification continues for a period of 60 days, such incapacitated or disqualified member shall be deemed to have duly appointed and authorised the committee, receiver or curator bonis appointed by the court to manage the property of the incapacitated member, or the director appointed under article 32(1), as appropriate, as his agent who shall immediately, for and on his behalf and with intent so as to bind him, sell or transfer to any Eligible Person(s) the incapacitated or disqualified member's share(s) in the company upon any terms and conditions whatsoever and in any manner whatsoever as such agent may, in his sole and absolute discretion, think fit and the directors in such events may not decline or suspend registration of the transfer of the share(s).

Provided That, upon request in writing on the part of such person/any interested person, the AFRC may, in its sole and absolute discretion, agree to extend such 60 day period for a further period as it may think fit.

- (b) For the purposes of this sub-article:
- (i) the expression "incapacity", in relation to a member of the company, means that any incapacity or incompetence certified by two qualified medical practitioners in writing due to the fact that such member of the company is incapacitated or incompetent, whether through illness, old age, accident or otherwise, for carrying on accountancy practice or business of a certified public accountant (practising) in a proper and effective way; and
- (ii) the expression "disqualification", in relation to a member of the company, means any disqualification for being a director of the company by reason of the occurrence of any one of the events set out in article 39.

Forfeiture of Shares

18. A forfeited share may be sold or otherwise disposed of subject to any other articles contained herein on such terms and in such manner as the sole director thinks fit and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the sole director thinks fit. For the avoidance of doubt, such forfeited share shall not be sold to any person other than an Eligible Person.

Purchase of Own Shares

19. Subject to sections 233 to 237 and 244 to 273 of the Ordinance, the company may purchase its own shares (including any redeemable shares).
20. Subject to sections 257 to 266 of the Ordinance, the company may make a payment in respect of the redemption or purchase of its own shares otherwise than out of the distributable profits of the company or the proceeds of a fresh issue of shares.

Allotment of Shares

21. The sole director shall not exercise any power conferred on him to allot shares in the company without the prior approval of the company in general meeting where such approval is required by sections 140 to 141 of the Ordinance. In the event that the sole director is so authorised to allot any share in the company, he shall allot such share to an Eligible Person (including an existing member of the company).

General Meetings

22. The sole director may, if he thinks fit, call a general meeting. A member of the company may also call a general meeting in the same manner as nearly as possible as that in which meetings may be called by the sole director.

Proceedings at General Meetings

23. No business is to be transacted at a general meeting if there is no quorum. The sole member present in person or by proxy constitutes a quorum at a general meeting.
24. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of the sole member, shall be dissolved; in any other case, it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the sole director may determine.
25. The sole shareholder may adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

Appointment of Proxy

26. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

"
I, _____, of _____ Limited
member of the above-named company, hereby
appoint _____ of _____, or failing
him, _____, as my proxy to vote for me on my behalf
at the [annual or extraordinary, as the case may be] general meeting of the company to
be held on the _____ day of _____ 20____, and at any adjournment thereof.

Signed this _____ day of _____ 20____."

27. Where it is desired to afford the sole member an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

"
I, _____, of _____ Limited
member of the above-named company, hereby
appoint _____ of _____, or failing
him, _____ of _____, as my proxy to vote for me on my behalf
at the [annual or extraordinary, as the case may be] general meeting of the company to
be held on the _____ day of _____ 20____, and at any adjournment thereof.

Signed this _____ day of _____ 20____.

This form is to be used *in favour of / against the resolution.

Unless otherwise instructed, the proxy will vote as he thinks fit.

*Strike out whichever is not desired."

28. When the sole member takes any decision that may be taken by the company in general meeting and that has effect as if agreed by the company in general meeting, he shall (unless that decision is taken by way of a resolution in writing) provide the company with a written record of that decision pursuant to section 617 of the Ordinance. Such a record shall be sufficient evidence of the decision having been taken by the member.

Directors

29. The sole member of the company shall become the company's director and save permitted by any other articles contained herein the company shall have no other directors.
30. Subject to any other articles contained herein the shareholding qualification for the company's director shall be at least one share.
31. The company may in general meeting and notwithstanding anything in these articles, nominate a natural person who has attained the age of 18 years as a reserve director of the company, to act in the place of the sole director who is also the sole member in the event of his death. Upon the death of the sole director, the reserve director shall be deemed to be a director of the company for all purposes, except for the signing of any auditor's report under the name of the corporate practice, until such time as an Eligible Person becomes a member and a director of the company, subject to the approval by the AFRC, or until he resigns from his office as director in accordance with section 464 of the Ordinance, whichever is the earlier. There is no share qualification for a reserve director at any time, whether before the death of the sole director or after the death of the sole director when the reserve director becomes a director of the company.
32. (1) In the event of incapacity or disqualification of the director, subject to approval by the AFRC, the company may by ordinary resolution appoint any natural person to be a director of the company until such time as an Eligible Person becomes a member and a director of the company, or until the date upon which the incapacity or disqualification ends. There is no share qualification for a director so appointed in such event. Sub-article (6)(b) of article 17 shall apply for the purposes of this article.
- (2) In the event of involuntary absence of the director, the director may, subject to approval by the AFRC, appoint any other person to act as alternate director in his place by written notification to the company and at his discretion in similar manner remove such alternate director. The alternate director, whilst acting as such, shall exercise and discharge all the functions, powers and duties of the director he represents, but shall look to such director solely for his remuneration as alternate director. The signature of an alternate director to any director's

resolution in writing and any written record of the sole director's decision shall, unless the notice of his appointment provides to the contrary, be as effective as the signature of his appointor. Any person appointed as an alternate director shall vacate his office as alternate director if and when the involuntary absence of his appointor ends, or his appointor removes him or vacates office as director. A director shall not be liable for the acts or defaults of any alternate director appointed by him. Sub-article (3) of article 36 shall apply for the purposes of this article.

Powers and Duties of Directors

33. The sole director shall have full power to represent and act for the company in all matters. He may take any decision that may be taken by way of resolution in a meeting of directors and the decision so taken shall have effect as if passed as a resolution in a meeting of the directors. In lieu of minutes of meeting, the director shall provide the company with a record in writing and sign a note or memorandum of all the decisions so taken pursuant to section 483 of the Ordinance. Such a note or memorandum shall constitute sufficient evidence of the decision having been taken by the director.
34. The company may exercise the powers conferred upon the company by sections 636 to 639 of the Ordinance with regard to the keeping of a branch register, and the sole director may (subject to the provisions of those sections) make and vary such articles as he may think fit in respect of the keeping of any such register.
35. The sole director shall be entitled to vote as the sole director in respect of any contract, arrangement or dealing in which he is interested or upon any matter arising out thereof, and if he shall so vote, his vote shall be counted and he shall be taken into account in determining the quorum for the meeting at which any such contract, arrangement or dealing is to be considered.
36.
 - (1) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the sole director shall from time to time by resolution determine, but any client's audit report shall be signed by the sole director holding a current practising certificate.
 - (2) In addition to applying for the purposes of article 17(6), sub-article (6)(b) of article 17 shall apply for the purposes of this article.
 - (3) For the purposes of this article, the expression "involuntary absence", in relation to a director, 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.
37. The sole director shall furnish to the AFRC full details of the sole director and sole member of the company at such times as may be required by the AFRC and shall supply to the AFRC such further information in relation to the company as the AFRC shall reasonably require for the purpose of or in connection with the registration or continued registration of the company as a corporate practice.
38.
 - (1) The sole director shall notify the AFRC in writing of any proposal to amend, in any manner whatsoever, the Articles of Association of the company not later than the day on which notice is given to the member of the company at which the amendment(s) is to be considered.

- (2) The sole director shall notify the AFRC in writing of any amendment to the Articles of Association of the company before the expiration of a period of 21 days beginning on the day on which the relevant special resolution approving and authorising such amendment is passed.

Disqualification of Directors

39. The office of the sole director shall be vacated if the sole director:
 - (1) ceases to be a director under the Ordinance or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) or is prohibited from being a director by law; or
 - (2) becomes bankrupt or makes any arrangement or composition with his creditors generally; or
 - (3) becomes prohibited from being a director by reason of any disqualification order made under Part IVA of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32); or
 - (4) becomes a mentally incapacitated person; or
 - (5) resigns his office by notice in writing to the company given in accordance with section 464(5) of the Ordinance; or
 - (6) ceases to be eligible to become or remain a member of the company; or
 - (7) ceases to be or remain an Eligible Person.

Proceedings of Directors

40. The quorum for director's meeting shall be one.
41. The sole director shall, at all times, be the chairman of any meeting of the company's directors.

Dividends and Reserve

42. (1) If a dividend or other sum that is a distribution is payable in respect of a share, it must be paid by one or more of the following means:
 - (a) transfer to a bank account specified by the distribution recipient in writing;
 - (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient in writing;
 - (c) sending a cheque made payable to the specified person by post to the specified person at the address the distribution recipient has specified in writing.
- (2) In this article:
specified person means a person specified by the distribution recipient in writing.

Part III - Company with two or more members:

Private Company

43. The company is a private company and accordingly:
- (1) the right to transfer shares is restricted in manner herein prescribed;
 - (2) the number of members of the company (exclusive of persons who are in the employment of the company and of persons who having been formerly in the employment of the company were while in such employment and have continued after the determination of such employment to be members of the company) is limited to 50 Provided That where two or more persons hold one or more shares in the company jointly, they shall for the purpose of this regulation be treated as a single member;
 - (3) any invitation to the public to subscribe for any shares or debentures of the company is prohibited; and
 - (4) the company shall not have power to issue share warrants to bearer.

Share Capital

44. No person shall be eligible to become or remain the legal and/or beneficial holder of any share in the company unless he is:
- (1) a natural person;
 - (2) a certified public accountant who satisfies the requirements from time to time of the HKICPA; and
 - (3) not prohibited from qualifying or acting as a director under the Ordinance;

AND a person eligible in the terms of this article is in these articles referred to as "an Eligible Person".

45. Notwithstanding anything to the contrary contained in these articles, not less than the proportion as is from time to time specified by the AFRC under section 20AAZX(4)(b) of the AFRCO of the ultimate beneficial ownership of the issued share capital of the company carrying voting rights shall be held by members of the HKICPA who hold current practising certificates.

Lien

46. Subject to any other articles contained herein, the company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless such shares shall be sold to any Eligible Person(s) nor unless a sum in respect of which the lien exists is presently payable, nor until the expiration of 14 days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

Transfer of Shares

47. Subject to such of the restrictions of these articles as may be applicable, any member may transfer all or any of his shares by instrument in writing in any usual or common form or any other form which the directors may approve. For the avoidance of doubt, any member

shall not be entitled to transfer any of his share(s) to any person other than any Eligible Person(s) (including any existing member(s) of the company).

48. The directors may in their sole and absolute discretion decline to register any transfer of shares whether or not fully paid up, save as provided for under section 151 of the Ordinance, without assigning any reason therefor and shall so decline if in their opinions the registration thereof would or might be in breach of any other articles contained herein.

Transmission of Shares

49. (1) In case of the death of a member, the survivor(s) where the deceased was a joint holder or the legal personal representative(s) of the deceased where he was a sole holder (as the case may be) shall be the only person(s) recognised by the company as having any title to the deceased's interest in his share(s) in the company, but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.
- (2) Any person becoming entitled to a share in consequence of the death of a member shall, forthwith upon becoming so entitled and upon such evidence being produced as may from time to time properly be required by the directors and subject as hereinafter provided:
- (a) in case such person is, for the time being, an Eligible Person, elect either to be registered himself as holder of the share(s) owned by such deceased member or to have other Eligible Person(s) (including any existing member(s) of the company) nominated by him registered as the transferee(s) thereof; or
- (b) in case such person is, for the time being, not an Eligible Person, nominate any Eligible Person(s) (including any existing member(s) of the company) to be registered as the transferee(s) thereof,

but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of any transfer of the share(s) by that member before his death, as the case may be.

- (3) If the person so becoming entitled and being an Eligible Person shall elect to be registered himself as the transferee of the relevant share(s), he shall deliver or send to the company a notice in writing signed by him stating that he so elects. If such person or the person so becoming entitled and not being an Eligible Person (as the case may be) shall nominate any Eligible Person(s) to be so registered, he shall execute transfer(s) of the share(s) in favour of such Eligible Person(s). All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer(s) as aforesaid as if the death of the member had not occurred and the notice or transfer(s) were transfer(s) signed by that member.
- (4) In the event that, within a period of 60 days after the death of the member of the company, the person so becoming entitled and being an Eligible Person fails to deliver or send to the company a notice in writing signed by him stating that he has elected to be registered himself as the transferee of the relevant share(s) or the person so becoming entitled and not being an Eligible Person fails to execute transfer(s) of share(s) in favour of the Eligible Person(s) duly nominated by him to be so registered, such person shall be deemed to have duly appointed and authorised any one of the surviving member(s) of the company as his agent who shall immediately, for and on his behalf and with intent so as to bind him, (as the case may be) register such person as the transferee of the relevant share(s) by way of serving upon the company a notice in writing stating so or nominate any

Eligible Person(s) to be so registered and execute transfer(s) of share(s) in favour of such Eligible Person(s), in any manner whatsoever as such agent may, in his sole and absolute discretion, think fit Provided That, upon request in writing on the part of such person, being the person becoming entitled to the deceased's interest in article 49(1), the AFRC may, in its sole and absolute discretion, agree to extend such 60 day period for a further period as it may think fit.

- (5) A person becoming entitled to share(s) by reason of the death of the holder shall be entitled to the same dividends and other advantages (if any) to which he would be entitled if he were the registered holder of the share(s), except that he shall not, before being registered as a member in respect of the share(s), be entitled in respect of such share(s) to exercise any right conferred by membership in relation to meetings of the company.

Provided always that the directors may at any time give notice requiring any such person to elect either to be registered himself as the transferee of the share(s) or to transfer such share(s), and if the notice is not complied with within 90 days, the directors may thereafter withhold payment of all dividends, bonuses or other moneys (if any) payable in respect of the share(s) until the requirements of the notice have been complied with.

- (6) Any person to whom the right to any shares in the company has been transmitted by operation of law shall, if the directors refuse to register the transfer(s), be entitled to call on the directors to furnish a statement of the reason(s) for the refusal within 28 days after his request therefor.
- (7) (a) In the event that a member of the company suffers from incapacity or disqualification and such incapacity or disqualification continues for a period of 60 days, such incapacitated or disqualified member shall be deemed to have duly appointed and authorised any one of the other member(s) of the company as his agent who shall immediately, for and on his behalf and with intent so as to bind him, sell or transfer to any Eligible Person(s) the incapacitated or disqualified member's share(s) in the company upon any terms and conditions whatsoever and in any manner whatsoever as such agent may, in his sole and absolute discretion, think fit Provided That, upon request in writing on the part of such member, the AFRC may, in its sole and absolute discretion, agree to extend such 60 day period for a further period as it may think fit.
- (b) For the purposes of this sub-article:
- (i) the expression "incapacity", in relation to a member of the company, means any incapacity or incompetence certified by two qualified medical practitioners in writing due to the fact that such member of the company is incapacitated or incompetent, whether through illness, old age, accident or otherwise, for carrying on accountancy practice or business of a certified public accountant (practising) in a proper and effective way; and
- (ii) the expression "disqualification", in relation to a member of the company, means any disqualification for being a director of the company by reason of the occurrence of any one of the events set out in article 61.

Forfeiture of Shares

50. A forfeited share may be sold or otherwise disposed of subject to any other articles contained herein on such terms and in such manner as the directors think fit and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the

directors think fit. For the avoidance of doubt, such forfeited share shall not be sold to any person other than an Eligible Person (including any existing member of the company).

Purchase of Own Shares

51. Subject to sections 233 to 237 and 244 to 273 of the Ordinance, the company may purchase its own shares (including any redeemable shares).
52. Subject to sections 257 to 266 of the Ordinance, the company may make a payment in respect of the redemption or purchase of its own shares otherwise than out of the distributable profits of the company or the proceeds of a fresh issue of shares.

Allotment of Shares

53. The directors shall not exercise any power conferred on them to allot shares in the company without the prior approval of the company in general meeting where such approval is required by sections 140 to 141 of the Ordinance. In the event that the directors are so authorised to allot any share in the company, they shall allot such share to an Eligible Person (including any existing member of the company).

Directors

54. The members of the company shall become the company's directors, all of whom shall be members of the HKICPA and at least a proportion of the members, as specified by the AFRC, shall hold current practising certificates.
55. Each of the company's directors shall be a registered holder (whether solely or jointly with others or otherwise) in at least one share in the company.

Powers and Duties of Directors

56. The company may exercise the powers conferred upon the company by sections 636 to 639 of the Ordinance with regard to the keeping of a branch register, and the directors may (subject to the provisions of those sections) make and vary such articles as they may think fit in respect of the keeping of any such register.
57. A director shall be entitled to vote as a director in respect of any contract, arrangement or dealing in which he is interested or upon any matter arising out thereof, and if he shall so vote, his vote shall be counted and he shall be taken into account in determining the quorum for the meeting at which any such contract, arrangement or dealing is to be considered.
58. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the directors shall from time to time by resolution determine, but any client's audit report shall be signed by any director holding a current practising certificate.
59. The directors shall furnish to the AFRC full details of the directors and members of the company at such times as may be required by the AFRC and shall supply to the AFRC such further information in relation to the company as the AFRC shall reasonably require for the purpose of or in connection with the registration or continued registration of the company as a corporate practice.
60. (1) The directors shall notify the AFRC in writing of any proposal to amend, in any manner whatsoever, the Articles of Association of the company not later than the day on which notice is given to the members of the company at which the amendment(s) is to be considered.

- (2) The directors shall notify the AFRC in writing of any amendment to the Articles of Association of the company before the expiration of a period of 21 days beginning on the day on which the relevant special resolution approving and authorising such amendment is passed.

Disqualification of Directors

61. The office of director shall be vacated if the director:
 - (1) ceases to be a director under the Ordinance or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) or is prohibited from being a director by law; or
 - (2) becomes bankrupt or makes any arrangement or composition with his creditors generally; or
 - (3) becomes prohibited from being a director by reason of any disqualification order made under Part IVA of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32); or
 - (4) becomes a mentally incapacitated person; or
 - (5) resigns his office by notice in writing to the company given in accordance with section 464(5) of the Ordinance; or
 - (6) shall for more than six months have been absent without permission of the directors from meetings of the directors held during that period; or
 - (7) ceases to be eligible to become or remain a member of the company; or
 - (8) ceases to be or remain an Eligible Person.

Removal of Directors

62. The company may by ordinary resolution remove any director before the expiration of his period of office notwithstanding anything in these articles or in any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have for damages for breach of any contract of service between him and the company. Such director so removed shall, with immediate effect from such removal, cease to be or remain as a member of the company and shall transfer his share(s) to any Eligible Person(s) (including any existing member(s) of the company) as soon as possible but, in any event, not later than 60 days after such removal Provided That, upon request in writing on the part of such director, the AFRC may, in its sole and absolute discretion, agree to extend such 60 day period for a further period as it may think fit.

CHAPTER 50 SECTION 51

Corporate Practices (Professional Indemnity) 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 Section 51 of the Professional Accountants Ordinance (Cap. 50) (PAO) and come into operation on 2 August 1996.
- 1A. These Rules are referred by the Accounting and Financial Reporting Council (AFRC) Ordinance, Section 20AAZY Professional indemnity requirements for section 20AAZX(5).

Citation and Interpretation

2. These Rules may be cited as the Corporate Practices (Professional Indemnity) 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) "corporate practice" means a company which is for the time being registered under Part 2A Division 3 of the AFRC Ordinance;
 - (b) "director" in relation to a corporate practice has the same meaning as a director under the AFRC Ordinance;
 - (c) "involuntary absence", in relation to a member 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;
 - (d) "disqualification", in relation to a member 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 regulation concerning disqualification of directors contained in the applicable Model Articles of Association;
 - (e) "HKICPA PII Master Policy" means the professional indemnity insurance policy with Policy Number PHD/AP1/92 - 103062 effected by the HKICPA (formerly known as the HKSA) acting on behalf of its members on 1 December 1992, or such other professional indemnity insurance master policy as may from time to time be effected by the HKICPA on behalf of its members;
 - (f) "incapacity", in relation to a member 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;
 - (g) "practising member" means a certified public accountant holding a current practising certificate as issued under the AFRC Ordinance;

- (h) "principal" in relation to a corporate practice, means a certified public accountant who is a director and member of the corporate practice; and
- (i) "professional business" means all advice given and services performed of whatever nature undertaken in a professional capacity as an accountant.

Compulsory Insurance under the HKICPA PII Master Policy

4. Each corporate practice shall have a valid and binding contract of professional indemnity insurance under the HKICPA PII Master Policy and any additional binding contract of professional indemnity insurance required to ensure compliance with the minimum requirements set out in Rule 5. The insurance may have cover greater than those requirements.

Requirements as to the Insurance Cover

5. The requirements for the professional indemnity insurance in Rule 4 are as follows:

(a) *Parties – Insured*

The insured shall include:

- (i) the corporate practice;
- (ii) every director of the corporate practice;
- (iii) every former director of the corporate practice; and
- (iv) in the event of the death, incapacity, or bankruptcy of any person specified under (ii) to (iii) above, the estate or the legal personal representatives of that person.

(b) *Parties – Insurer*

The insurer shall be:

- (i) authorised to carry on insurance business by the Insurance Authority; or
- (ii) authorised or licensed to carry on insurance business by an authority in a country or territory outside Hong Kong and providing the cover through a licensed insurance broker under the Insurance Ordinance (Cap. 41).

(c) *The Insured Profession and Business*

The insurance shall cover all professional business undertaken by a corporate practice.

(d) *The Period of Insurance*

The insurance shall be either:

- (i) for a period of not less than one year; or
- (ii) in the case of insurance placed under the HKICPA PII Master Policy or other scheme which requires all insurances under it to expire on a common expiry

date, for a period expiring on the next common expiry date under that scheme.

(e) *Minimum Limit of Indemnity*

- (i) The minimum limit of indemnity of the corporate practice in relation to each and every single claim during the period of insurance shall not be less than:
- (A) the minimum limit of indemnity of the HKICPA PII Master Policy; or
 - (B) 2½ times its gross fee income for the financial year immediately preceding the beginning of the period of insurance subject to a maximum of HK\$15,000,000; or
 - (C) the amount calculated by multiplying the number of principals in the practice as at the beginning of the period of insurance, by HK\$3,000,000;

whichever is the highest.

- (ii) There may be a self-insured excess for each and every claim but any such excess shall not be more than:
- (A) the amount calculated by multiplying the number of principals of the corporate practice as at the beginning of the period of insurance, by HK\$200,000; or
 - (B) 2% of the gross fee income of the corporate practice for the financial year immediately preceding the beginning of the period of insurance;

whichever is the greater.

- (iii) If as a result of a claim(s), the indemnity available shall fall below the amount determined in (e)(i) above, the policy shall provide automatic reinstatement of cover up to the original amount, subject to aggregate indemnity for all claims in any one insurance period of 12 months of not less than twice the minimum limit of indemnity as determined under (e)(i) above.

(f) *Cover*

- (i) The insurance shall cover civil liability arising out of breach of professional duty or any negligent act, error or omission of an insured providing professional services under a current corporate practice registration certificate and any person at any time employed by the insured.
- (ii) The insurance shall not be cancellable by the insurer for innocent non-disclosure or innocent misrepresentation or by the insured at all.
- (iii) The insurance shall cover the insured against claims arising out of a dishonest and fraudulent act or omission of an insured and any person at any time employed by the insured (notwithstanding any misrepresentation or non-disclosure of such acts or omissions when effecting the insurance) but the insurer need not promise to indemnify any person committing, making or condoning any such dishonest act or omission or misrepresentation or non-

disclosure in relation to it.

- (iv) Where the insurance cover is on a claims made basis, the insurance shall have a retrospective date which shall be no less than seven years before the beginning of the period of insurance; except for corporate practices which have been incorporated for less than seven years, in which case, the insurance shall be retrospective to the date of incorporation.

(g) *Run-off*

If a corporate practice shall cease to be a corporate practice registered under the AFRCO, it shall ensure that run-off insurance will cover liability arising from any circumstances acts errors or omissions occurring in the last seven years prior to the date of cessation of registration, and where the insurance cover is on a claims made basis, the insurance is maintained through a period of not less than seven years after the date of cessation of registration.

Information to be Provided to the AFRC

6. If the corporate practice requires insurance in addition to the HKICPA PII Master Policy, it shall obtain a written statement from the insurance broker through whom the additional insurance has been placed, who shall be an licensed insurance broker under the Insurance Ordinance (Cap. 41), or where the insurance is placed directly, from the insurer providing the additional insurance certifying that on the basis of written information supplied to the broker or the insurer as appropriate in a proposal or otherwise by or on behalf of the corporate practice, the terms of additional insurance of the corporate practice comply with the requirements of these Rules.
7. The corporate practice shall provide to the AFRC or its appointed delegate from time to time such information and documents about or in evidence of the corporate practice's professional indemnity insurance as it requests.
8. The corporate practice shall inform the AFRC in writing within 14 days of becoming aware that its professional indemnity insurance, including the insurance referred to in these Rules has expired or been cancelled or exhausted or failed to comply with these Rules unless within that period:
 - (a) the Professional Indemnity Insurance has been renewed or reinstated, or the terms have been amended in accordance with these Rules; or
 - (b) the corporate practice has concluded a valid and binding contract of professional indemnity insurance complying with these Rules.

If after the period of 14 days, the corporate practice does not have insurance as required by these Rules, it shall suspend practice immediately, or comply with conditions imposed by the AFRC failing which the AFRC may take such action under the AFRC Ordinance as it thinks fit.

9. The AFRC may issue current corporate practice registration certificates to applicants or corporate practices who have the required insurance in the form of a cover note and a certification provided by the broker or insurer under the policy of insurance, who are licensed under the Insurance Ordinance (Cap. 41).

***Important Note**

These Rules require compulsory professional indemnity insurance for applicants for, and holders of current corporate practice registration certificates. As a practical matter, the compulsory insurance may not be adequate for some applicants, and existing corporate practices. Each applicant, and existing corporate practice should take professional advice from insurance brokers or other advisers so that each can consider what is an adequate type and level of cover for the practice.

The HKICPA shall not be under any liability to any member or any other person arising out of any steps the HKICPA takes or omits to take to ensure that corporate practices have complied with these Rules, unless the act or omission is shown to have been in bad faith.