

7 December 2012

Dear member,

Proposed Resolutions for Annual General Meeting

During our preparation for the AGM, our external legal advisor has drawn our attention to the constitutional problems raised by the 3 Proposed Resolutions sought to be passed in the coming AGM, which we communicated to you in our notice to you dated 26 November 2012.

The 3 Proposed Resolutions are:

1. To suspend the fee adjustments for 2013
2. To arrange a forum to explain the proposed fee adjustment for 2013
3. To convene a general meeting for members to vote on the fee adjustments for 2013

We have been advised by our legal advisor, with the benefit of consultation with a leading counsel, that the Professional Accountants Ordinance ("PAO") expressly vests the power of managing the Institute in the Council.

We have been advised that all 3 Proposed Resolutions are invalid for the following reasons.

Proposed Resolutions 1 and 3 are both invalid since they intrude on the powers vested solely in Council by the PAO and By-laws. In particular, both Proposed Resolutions 1 and 3 offend against the power given solely to Council by section 18(1)(aa) of the PAO to set fees. Further, under section 17(2) of the PAO, no resolution passed in a general meeting shall invalidate the exercise of any power already exercised by the Council.

Proposed Resolution 2, regarding arranging a forum to explain the fee adjustments for 2013, purports to give a direction to the Council to act in a specific manner, and is also invalid. Further, the Institute has already taken the opportunity in the SMP Symposium to explain the rationale behind the fee adjustments to members, many of whom have shown a positive response to the same. The Institute will also make a presentation at the AGM to further explain to members the rationale behind the fee adjustments. If necessary, the Institute will be happy to hold further forums to explain the matter to members. That being the case, Proposed Resolutions 2 will also be redundant.

We wish you to appreciate that the Council has been statutorily entrusted under the PAO to make decisions on various important matters, including the subject matter of the 3 Proposed Resolutions, and matters of a similar nature. Tabling the 3 Proposed Resolutions as formal business in a general meeting (whether in an AGM or an EGM), quite apart from the legal invalidity thereof, would cause considerable disruption to the normal operation of the Council.

In the circumstances, based on legal advice, and with the support of a clear majority of Council members, I, as the President of the Institute (who will be the Chairman of the AGM) have decided, as I have been advised that I am legally entitled to do, that the three Proposed Resolutions will not be put to vote at the AGM. I must emphasize that I act upon the legal advice to exercise my discretion not because of the topic of the 3 Proposed Resolutions, i.e. fee increases, but the concern over setting precedent for resolutions of similar nature in the future.

It is right for members to show concern over fee increases and wish to understand the rationale behind the decision. Council would assure members that the decision to adjust the fees for 2013 was not taken lightly but after lengthy deliberation by Council. As a transparent professional body, we welcome and treasure different views of members, and we will continue to take every available opportunity to communicate with our members on the fee adjustments.

As I mentioned above, at the forthcoming AGM, there will be a presentation relating to fee adjustments for 2013 and an opportunity for receiving members' comments. Members are welcome and encouraged to take the opportunity to ask questions or express their views on this subject.

The President, Vice-Presidents and Chief Executive will also be happy to further explain the fee adjustments to members, especially those who cannot attend the AGM. In this connection, a forum has been scheduled to be held on 17 December 2012 at 6:00 p.m. at the Institute's auditorium on 27th floor of Wu Chung House. Members are welcome to take part in the forum.

May I take this opportunity to wish all of you a merry Christmas and a prosperous new year.

Yours sincerely,

Keith Pogson
President
Hong Kong Institute of CPAs