

Guide for the Recognition of Overseas Auditors

Introduction

1. This document sets out the requirements and procedures for the recognition of an overseas auditor of an overseas entity in Hong Kong under Division 3 of Part 3 of Accounting and Financial Reporting Council Ordinance (Cap 588) (**AFRCO**).
2. The requirements and procedures in this document are not applicable to the Mainland auditors endorsed in accordance with the mutual recognition agreement under section 20ZT of the AFRCO.

Definition

3. In this document, save where the context otherwise requires, the following terms shall have the meanings attributed to them:
 - **AFRC** means Accounting and Financial Reporting Council.
 - **AFRCO** means Accounting and Financial Reporting Council Ordinance (Cap 588).
 - **Listed entity** has the same meaning as in section 3(1) of the AFRCO, i.e. a listed corporation or a listed collective investment scheme.
 - **Listing Rules** means the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited; or the Rules Governing the Listing of Securities on the GEM of the Stock Exchange of Hong Kong Limited, approved by the Securities and Futures Commission under section 24 of the Securities and Futures Ordinance (Cap 571), and as in force at the material time.
 - **Overseas entity** has the same meaning as in section 2(1) of the AFRCO, i.e. (a) a collective investment scheme constituted under the laws of any place outside Hong Kong; or (b) a body corporate incorporated outside Hong Kong, whether or not the scheme or body is a listed entity.
 - **Public interest entity (PIE)** has the same meaning as in section 3(1) of the AFRCO, i.e. any listed entity except a listed corporation whose listed securities do not include shares or stocks.
 - **PIE engagement** has the same meaning as in Part 1 of Schedule 1A of the AFRCO, i.e. any of the following types of engagement carried out by an auditor:
 - (a) An auditor's report on a PIE's financial statements / annual accounts required by section 379 of the Companies Ordinance (Cap 622), the Listing Rules or any relevant code;
 - (b) A specified report required to be included in a listing document for the listing of a corporation's share or stocks or for the listing of a collective investment scheme;

- (c) An accountant's report required under the Listing Rules to be included in a circular issued by a PIE for a reverse takeover or a very substantial acquisition.
- **PIE auditor** means a registered or recognized PIE auditor.
- **Recognized PIE auditor** has the same meaning as in section 3A of the AFRCO, i.e. an overseas auditor recognized under Division 3 of Part 3 of the AFRCO.

Undertaking and carrying out a PIE engagement

4. An overseas auditor must not “undertake” (i.e. accept an appointment for carrying out) any PIE engagement for an overseas entity unless an application has been made in relation to the recognition of the overseas auditor as a PIE auditor; and the application has been granted.
5. An overseas auditor must not carry out any PIE engagement for an overseas entity unless the overseas auditor has been recognized as a PIE auditor of that entity.

Recognition is specific to an overseas entity

6. The recognition of an overseas auditor is specific to the overseas entity who makes the application for recognition. Once the overseas auditor has been recognized and during the period in which the recognition takes effect, the overseas entity does not have to re-apply for recognition if it appoints that recognized overseas auditor to carry out other PIE engagements.
7. Other overseas entities intending to appoint that particular overseas auditor to carry out a PIE engagement for them must make their own applications for the recognition of such auditor.

Eligibility for recognition as a recognized PIE auditor

8. An application for recognition will not be granted unless:
 - (a) an overseas entity has obtained a statement of no objection from:
 - the Hong Kong Exchanges and Clearing Limited for a corporation¹, or
 - the Securities and Futures Commission for a collective investment schemefor appointing an overseas auditor to carry out a PIE engagement for it; and such statement has not been withdrawn;
 - (b) the overseas auditor is a member of, or registered with, an accountancy body that is a member of the International Federation of Accountants; and is subject to the regulation of an overseas regulatory organization recognized by the AFRC; and

¹ For details of the application of the statement of no objection provided by the Hong Kong Exchanges and Clearing Limited, please refer to the Frequently Asked Questions issued by The Stock Exchange of Hong Kong Limited at: https://en-rules.hkex.com.hk/sites/default/files/net_file_store/new_rulebooks/fa/FAQ_059-067-2019.pdf

- (c) the overseas auditor has adequate resources and possesses the capability to carry out a PIE engagement for the overseas entity.
9. The AFRC may recognize an overseas regulatory organization for the purposes of paragraph 8(b) of this document if it is satisfied that –
- (a) the organization performs a function that is similar to a function of the AFRC under the AFRCO; and
 - (b) the organization is composed of a majority of persons who are independent of the accountancy profession.
10. An overseas regulatory organization generally meets the requirements under paragraph 9 of this document, if it is:
- (a) a member of the International Forum of Independent Audit Regulators; or
 - (b) from a jurisdiction which has attained equivalence status granted by the European Commission under Article 46 of the Statutory Audit Directive 2006/43/EC.
11. In assessing whether the overseas auditor has the resources and capabilities to carry out a PIE engagement for the overseas entity, the AFRC may consider matters including, but not limited to, the following:
- (a) whether the personnel of the overseas auditor have knowledge of the relevant industries in which the overseas entity operates;
 - (b) whether the personnel of the overseas auditor have experience with relevant regulatory or reporting requirements;
 - (c) whether the overseas auditor has sufficient personnel with the necessary competence and capabilities;
 - (d) whether technical experts, including but not limited to those with expertise in relevant information technology or other specialized areas of accounting or auditing, are available in the overseas auditor, if needed; and
 - (e) whether individuals of the overseas auditor meeting the criteria and eligibility requirements to perform engagement quality control review are available.

Application procedures

12. If an overseas entity proposes to appoint an overseas auditor to carry out a PIE engagement for it, the overseas entity must apply to the AFRC for the recognition of the overseas auditor as a PIE auditor of the entity. The application procedures are as follows:

(a) Submission of an application

An overseas entity, as an applicant, is required to submit [Application Form A – Information of the Overseas Entity](#) **together with** the statement of no objection, and to coordinate with the proposed overseas auditor for the submission of [Application Form B – Information of the Overseas Auditor](#).

Eligibility requirements for recognition as a recognized PIE auditor are set out in paragraph 8 of this document.

(b) Request to provide supplementary information

The AFRC may require the applicant to provide supplementary information which the AFRC considers relevant to the application. Unless otherwise specified, the applicant is required to respond in writing within 10 business days of the date of the requirement.

(c) Notification of the decision

The AFRC will generally inform the applicant of its decision on the application by written notice within 30 business days of the date of application, if the AFRC is satisfied that no supplementary information is required. A copy of the notice will also be sent to the overseas auditor specified in the application.

If the AFRC approves the application, an approval-in-principle is granted by the AFRC recognizing the overseas auditor specified in the application as a PIE auditor of the overseas entity. The approval-in-principle is valid for a 6-month period.

If the AFRC refuses the application, the AFRC must inform the applicant of its decision by written notice, which includes a statement of the reasons for the decision.

(d) Appointment of the overseas auditor

After the approval-in-principle is granted by the AFRC, the overseas entity may appoint the overseas auditor specified in the approval-in-principle to carry out a PIE engagement for it.

If the overseas auditor undertakes the PIE engagement, the overseas entity must, within 14 days after the date of undertaking, inform the AFRC of that fact by written notice.

If, by the end of this 6-month validity period of the approval-in-principle:

- the overseas entity has not appointed the overseas auditor specified in the approval-in-principle to carry out a PIE engagement for it; or
- the overseas entity has appointed the overseas auditor to carry out a PIE engagement for it but the overseas auditor has not undertaken the engagement,

the overseas entity must make a fresh application under paragraph 12(a) of this document if it subsequently proposes to appoint an overseas auditor.

(e) Validity of the recognition

The recognition of an overseas auditor as a PIE auditor of an overseas entity takes effect when the auditor accepts an appointment to carry out a PIE engagement within the 6-month validity period of the approval-in-principle. The recognition expires on 31 December of the year in which the recognition takes effect. The recognition of an overseas auditor as a PIE auditor is renewable annually.

Renewal

13. An overseas entity intending to retain a recognized PIE auditor to carry out a PIE engagement in the following year is required to apply to the AFRC for renewal of the recognition.
14. The application must be made no earlier than 3 months, and no later than 45 days, before the day on which the current recognition expires.
15. An overseas entity, as an applicant, is required to submit [Application Form C – Information of the Overseas Entity](#) and to coordinate with the overseas auditor for the submission of [Application Form D – Information of the Overseas Auditor](#).

Eligibility requirements for renewal of the recognition as a recognized PIE auditor are the same as those set out in paragraph 8 of this document. The overseas entity is requested to declare that the statement of no objection has not been withdrawn in Application Form C.

16. The AFRC will generally inform the applicant of its decision on the application by written notice within 20 business days of the date of application, if the AFRC is satisfied that no supplementary information is required. A copy of the notice will also be sent to the overseas auditor specified in the application.

If the AFRC refuses the application, the AFRC must inform the applicant of its decision by written notice, which includes a statement of the reasons for the decision.

17. The renewal of the recognition expires on 31 December of the year in which the renewal takes effect.

Imposition or amendment of recognition conditions

18. The AFRC may at any time impose any conditions or amend an existing condition in relation to the recognition of a PIE auditor that the AFRC considers appropriate.
19. If the AFRC decides to impose or amend a condition in relation to the recognition of a PIE auditor, the AFRC must inform the overseas entity of its decision by written notice; and issue a copy of the notice to the overseas auditor concerned. The notice will also include a statement of the reasons for the decision.

Notification requirements

20. Notification requirements of overseas entity

- (a) Overseas auditor recognized as PIE auditor on undertaking PIE engagements

If the overseas auditor undertakes the PIE engagement after the approval-in-principle is granted by the AFRC, the overseas entity must, within 14 days after the date of undertaking, inform the AFRC of that fact by written notice.

- (b) Termination of appointment of recognized PIE auditor

The recognition of a recognized PIE auditor is revoked, when the appointment of the auditor for carrying out a PIE engagement for the overseas entity is terminated. The overseas entity is required, within 14 days after the date of termination, to inform the AFRC of the termination by written notice.

If the overseas entity proposes to appoint another overseas auditor to carry out a PIE engagement for it, the overseas entity must make a fresh application under paragraph 12(a) of this document.

21. Notification requirements of recognized PIE auditor

- (a) Failure to meet certain requirements after recognition

- If a recognized PIE auditor fails to meet a requirement specified in paragraph 8(b) or (c) of this document, the overseas auditor is required, within 7 days after the day on which the failure begins, inform the AFRC of the failure by written notice.
- The overseas auditor is required, within 14 days after the day on which the written notice is issued to the AFRC, to take steps to ensure that the requirement is met.
- If the overseas auditor still fails to meet the requirement on the expiry of the 14-day period, the AFRC may:
 - (i) revoke the recognition of the auditor; or
 - (ii) suspend the recognition of the auditor for a period of time, or until the occurrence of an event, that the AFRC considers appropriate.
- If the AFRC decides to revoke or suspend the recognition of an auditor, the AFRC will inform the auditor of its decision by written notice; and issue a copy of the notice to the overseas entity concerned. The notice will also include a statement of the reasons for the decision.

- (b) Notification of changes in particulars of the recognized PIE auditor

If there is a change in full name, business address, telephone number and/or electronic mailaddress of a recognized PIE auditor, the auditor must, within 14 days after the day on which the change takes place, inform the AFRC of the change by written notice.

Offences to provide false or misleading information

22. According to section 20ZQ of the AFRCO, a person commits an offence and is liable on conviction to a fine of HK\$50,000 and to imprisonment for 6 months if the person, in connection with an application or a renewal application for recognition of overseas auditors under paragraphs 12(a) and 14 of this document respectively –
- (a) makes a statement that is false or misleading in a material particular;
 - (b) knows that, or is reckless as to whether or not, the statement is false or misleading in a material particular;
 - (c) omits a material particular from a statement with the result that the statement is rendered false or misleading; and
 - (d) knows that, or is reckless as to whether or not, the material particular is omitted from the statement.
23. The AFRC may verify or audit any of the information provided in the application form, whether before or after a decision on the application is made.

Revocation or suspension of recognition on non-disciplinary grounds

24. Mandatory revocation

The AFRC must revoke the recognition of an overseas auditor as a PIE auditor of an overseas entity if the appointment of the auditor for carrying out a PIE engagement for the entity is terminated.

25. Discretionary revocation or suspension

- (a) The AFRC may revoke or suspend the recognition of an overseas auditor as a PIE auditor of an overseas entity if:
- the entity requests the AFRC to do so;
 - the AFRC is satisfied that the auditor has been recognized:
 - (i) by mistake; or
 - (ii) in consequence of any misleading, false or fraudulent statement, declaration or representation, whether orally or in writing; or

- the Securities and Futures Commission or the Hong Kong Exchanges and Clearing Limited, as the case requires, has withdrawn the statement of no objection referred to in paragraph 8(a) above.
- (b) If the AFRC decides to revoke or suspend the recognition of an overseas auditor as a PIE auditor of an overseas entity, the AFRC will inform the overseas entity of its decision by written notice; and issue a copy of the notice to the overseas auditor concerned. The notice will also include a statement of the reasons for the decision.

The register

26. The AFRC must establish and maintain a register of PIE auditors (“Register”) which contains, in relation to each recognized PIE auditor:
- (a) the full name of the auditor;
 - (b) the business address of the auditor;
 - (c) the conditions imposed by the AFRC in relation to the recognition of auditor, if any;
 - (d) the day on which the recognition of the auditor expires, if applicable;
 - (e) a record of the sanctions imposed or actions taken under Division 2 or 3 of Part 3B of the AFRCO in relation to the auditor within last five years, if any; and
 - (f) any other particulars that the AFRC considers appropriate.
27. Inspection of the Register
- (a) A person may inspect free of charge:
 - the documentary form of the Register at the AFRC office at office hours; and
 - the Register made available on the AFRC website.