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Hong Kong audit regulator says it expects full compliance with laws and regulations

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Hong Kong's audit regulator, the Accounting and Financial Reporting Council (AFRC), says it expects all audit firms and their staff to comply with all relevant laws and regulations set out within the accountants' ethics code. The statement is the latest from the regulator reminding auditors of their professional duties and of the need to ensure staff are properly trained and engagements appropriately resourced.

The AFRC has said that, as the independent regulator of the accounting profession in Hong Kong, it expects all audit firms and their personnel to fulfil the fundamental principle of professional behaviour to comply with all relevant laws and regulations under paragraphs 110.1 A1(e) and R115.1(a) of the *Code of Ethics for Professional Accountants* (the Code).

It highlighted that in a recent decision notice, the Supervision and Evaluation Bureau of the Ministry of Finance of the People's Republic of China had imposed a sanction on an individual CPA in respect of audits of mainland enterprises listed in Hong Kong on his own account rather than through the mainland public accounting firm to which he belonged, as required under mainland law.

According to paragraph 110.1 A1(e) and R115.1(a) of the Code, an auditor is expected to (i) comply with relevant laws and regulations, (ii) behave in a manner consistent with the profession's responsibility to act in the public interest in all professional activities and business relationships; and (iii) avoid any conduct that the professional accountant knows or should know might discredit the profession.

The AFRC reminded audit firms in Hong Kong that "*the fundamental principle of professional behaviour requires them to have a thorough understanding of, and strictly comply with, the applicable laws and regulations of any jurisdictions in which they practise of provide audit services, including those in the mainland and all requirements under the "Interim Provisions on Accounting Firms' provision of Auditing Services for the Overseas Listing of Enterprises in Mainland China (interim provisions) which govern the provision of audit services by Hong Kong audit firms in respect of mainland enterprises listed in Hong Kong*."

The interim provisions, which came into force on 1 July 2015, prevent foreign auditors from auditing mainland Chinese companies unless they enter into a cooperation agreement with a mainland public accounting firm. There is an exemption allowing auditors based in Hong Kong, Macau and Taiwan to undertake audits of mainland companies which want to list, or are already listed, on the stock exchange of one of the three jurisdictions. Auditors are nonetheless expected to follow the rules as set out in the provisions.

The note says that "*compliance is a legal obligation and a fundamental pillar of responsible and sustainable practice*". It says the AFRC will "*not hesitate to hold firms and their personnel accountable by taking robust enforcement actions should they fail to do so*." The paper also says that in considering the applications of registration of public interest entity (PIE) auditors and their renewals, the AFRC may have regard to all information in its possession including the compliance records of an applicant.

Prior warnings

This warning calls to mind the AFRC's first report on the PIE audit market in Hong Kong published in March 2024 which highlighted high vacancy and attrition rates in the industry and which emphasised the importance of continuing professional development (CPD) training in contributing to audit quality (see Hogan Lovells alerter *Disciplinary, litigation risk – AFRC highlights skill shortage in Hong Kong public interest entity audits*). The findings were made in the context of the trend of clients exerting downward pressure on fees which is thought to have led some auditors to feel they have little option but to save on the resource and effort they assign to a task.

Earlier, in its 2023 Oversight Report, the AFRC noted a high level of non-compliance in the reporting of CPD training, a lack of consultation on anti-money laundering (AML) and counter-terrorist financing (CTF) guidelines and a delay in updating professional ethics standards (see Hogan Lovells alerter *Ticking the boxes – Hong Kong accountants regulator highlights failings in professional training compliance*).

Focus on standards

The AFRC seems to be laser-focused on compliance and standards and taking every opportunity to reinforce their importance in its public communications (which is perhaps unsurprising in the current environment).

This reminder of the AFRC's expectation is in line with the approach of the SFC and the Insurance Authority with those regulators already fully engaged in actively policing those they regulate in Hong Kong for possible violations of mainland laws and regulations when those entities try to drum up, or even work on, new business in highly regulated sectors in the mainland.

It goes without saying that auditors should ensure they put a premium on observing the highest standards of professional conduct, obtain advice and provide training on professional ethics and risk management for employees and make sure that any engagements that are taken on are in line with the relevant rules and regulations, especially if the audit involves cross-border considerations.

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