

Press Release
LCQ14: Enforcement of Professional Accountants (Amendment)
Ordinance 2013

Wednesday, October 14, 2015

Following is a question by the Hon Kenneth Leung and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (October 14):

Question:

The Professional Accountants (Amendment) Ordinance 2013 (the Amendment Ordinance), which has come into operation since January 24, 2014, contains provisions prohibiting a body corporate not being a corporate practice to use misleading descriptions such as "certified public accountant", the initials "CPA" and the characters "會計師". Recently, some members of the industry have relayed to me that accounting practices suspected to be in breach of the Amendment Ordinance or the existing code of practice are still prevalent in the market. In this connection, will the Government inform this Council:

- (1) whether it has formulated policies and operational objectives for enforcing the Amendment Ordinance; if it has, of the details, including the government department responsible for the enforcement; if not, the reasons for that;
- (2) whether it has assessed the effectiveness of the law enforcement efforts in respect of the Amendment Ordinance; if it has, of the details;
- (3) whether the authorities have allocated additional resources to step up law enforcement efforts since the Amendment Ordinance came into operation; if they have, of the details;
- (4) of the government departments/organisations to which members of the public may report suspected cases of illegal use of misleading descriptions; the number of such reports received by the authorities since the Amendment Ordinance came into operation; whether the authorities have conducted investigations and instituted prosecutions in respect of such cases; if they have, of the respective numbers of prosecutions and convictions, as well as the sentences imposed by the court on the convicted persons; and

(5) whether it has plans to step up efforts in enforcing the Amendment Ordinance; if it does, of the details; if not, the reasons for that?

Reply:

President,

The Professional Accountants (Amendment) Ordinance 2013 (the Amendment Ordinance) was enacted through a Member's Bill and came into operation on January 24, 2014. The Amendment Ordinance has amended the Professional Accountants Ordinance (Cap. 50) (PAO) by, amongst other things, adding a subparagraph (iv) to section 42(1)(ha) of the PAO. On the basis that section 42(1)(ha) already prohibits a body corporate which is not a corporate practice to use in its name certain descriptions which are reserved for professionals, the new section 42(1)(ha)(iv) further prohibits a body corporate which is not a corporate practice from using the description "certified public accountant", the initial "CPA" or the characters "會計師" in its name with the intention of causing, or in a way which may reasonably cause, a person to believe that it is a practice unit registered under the PAO. The aforementioned amendment can plug the loophole and prevent members of the public from being misled.

The Companies Registry (CR) has issued guidelines on the use of the description "certified public accountant", "CPA" or "會計師" in company names. The CR has also tightened the requirement for approving the use of the description "certified public accountant" or "會計師", etc. in company names when processing applications for incorporation and change of company names. Currently, the CR would approve the registration of a company name containing the description "certified public accountant" or "會計師", etc. only if the applicant is able to provide a letter issued by the Hong Kong Institute of Certified Public Accountants (HKICPA), proving that HKICPA has given approval for the registration of the proposed company as a corporate practice under the PAO.

On the other hand, the HKICPA actively co-operates with the Police in the latter's enforcement work relating to the PAO. The HKICPA also protects the interests of the public and the profession by taking the following actions:

- * reporting relevant contraventions to the Police (from the beginning of 2014 to the end of June 2015, the HKICPA reported to the Police 19 cases which were suspected to have contravened the PAO, but none of these cases were suspected to have contravened section 42(1)(ha)(iv) of the PAO);
- * keeping and regularly updating the register of certified public accountants for public inspection so as to enable any member of the public to ascertain whether he is dealing with an accountant registered with the HKICPA;
- * regularly publicising and providing guidance on matters regarding the appropriate use of names by practice units registered with the HKICPA;
- * reporting relevant cases to the CR for follow-up actions, including directing the relevant companies to change their Chinese and/or English names;
- * issuing letters to unregistered practices requesting change of inappropriate names;
- * requesting unregistered practices to remove misleading information from their websites; and
- * in cases where members of the HKICPA are identified as having possible connections with the unregistered practices, reporting their improper conduct to the HKICPA's Professional Conduct Committee for consideration of appropriate actions.

For the aforementioned cases referred by the HKICPA, the Police took appropriate actions in accordance with the circumstances of individual cases, including initiation of prosecutions. The Police have not maintained statistics on information such as prosecutions and convictions in relation to the cases.

The Government encourages members of the public to report to the Police cases which are suspected to have committed the aforementioned offences. The Government will also maintain close liaison with the HKICPA to review from time to time the enforcement work concerning the relevant provisions of the PAO.

Ends