



## Hong Kong Institute of Certified Public Accountants takes disciplinary action against two certified public accountants (practising) and a corporate practice

(HONG KONG, 19 December 2019) A Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants reprimanded Miss Chan Mei Mei, certified public accountant (practising) (F05390), Mr Ho Yiu Hang, Ricky, certified public accountant (practising) (A25768) and Asian Alliance (HK) CPA Limited (M0331) (collectively “Respondents”) on 4 November 2019 for their failure or neglect to observe, maintain or otherwise apply professional standards issued by the Institute. The Committee ordered that the practising certificates of Chan and Ho be cancelled, with no issuance of practising certificates to Chan and Ho for 36 months and 24 months respectively, to be effective from 16 December 2019. Further, Chan, Ho and Asian Alliance were ordered to pay a penalty of HK\$150,000, HK\$110,000 and HK\$200,000 respectively, and to jointly pay costs of the Institute and the Financial Reporting Council (“FRC”) totalling HK\$466,869.60.

Asian Alliance (formerly known as Zhonglei (HK) CPA Company Limited) audited the consolidated financial statements of Neo Telemedia Limited, a Hong Kong listed company, and its subsidiaries (collectively “Group”) for the years ended 30 June 2011 and 2012. Chan was the engagement director and Ho was the engagement quality control reviewer (“EQCR”) of the audits.

The Institute received a referral from the FRC about audit irregularities concerning certain acquisition transactions entered into by the Group. The Respondents failed to identify the incorrect classification and measurement of a contingent consideration payable by the Group in one of the acquisitions. In addition, the Respondents failed to perform sufficient audit procedures and prepare adequate documentation in respect of assessing the impairment of goodwill and other intangible assets arising from the acquisitions.

After considering the information available, the Institute lodged a complaint under section 34(1)(a)(vi) of the Professional Accountants Ordinance (Cap 50).

The Respondents admitted the complaint against them. The Disciplinary Committee found as follows:

- (i) Chan and Asian Alliance failed or neglected to observe, maintain or otherwise apply the following professional standards:
  - Hong Kong Standard on Auditing (“HKSA”) 200 *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Hong Kong Standards on Auditing*;
  - HKSA 230 *Audit Documentation*;

- HKSA 315 *Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment*;
  - HKSA 330 *The Auditor's Responses to Assessed Risks*;
  - HKSA 500 *Audit Evidence*;
  - HKSA 540 *Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures*; and
  - HKSA 700 *Forming an Opinion and Reporting on Financial Statements*.
- (ii) Ho failed or neglected to observe, maintain or otherwise apply HKSA 220 *Quality Control for an Audit of Financial Statements*.
- (iii) Chan and Ho failed or neglected to observe, maintain or otherwise apply the fundamental principle of Professional Competence and Due Care in sections 100.5(c) and 130.1 of the Code of Ethics for Professional Accountants in conducting their duties as engagement director and EQCR respectively.

Having taken into account the circumstances of the case, the Disciplinary Committee made the above order against the Respondents under section 35(1) of the ordinance. The Committee noted that the public are entitled to expect practising accountants and corporate practices to discharge their duties and carry out their work to the highest standards. The Respondents' breaches negatively impacted the quality of their audit work and documentation. The breaches demonstrated a lack of professional competence and are therefore serious. The Committee further noted that it is important to maintain public confidence in the accountancy profession, and sanctions imposed should act as deterrence against non-compliance by accountancy professionals of the high standards expected of them.

#### About HKICPA Disciplinary Process

The Hong Kong Institute of Certified Public Accountants ("HKICPA") enforces the highest professional and ethical standards in the accounting profession. Governed by the Professional Accountants Ordinance (Cap. 50) and the Disciplinary Committee Proceedings Rules, an independent Disciplinary Committee is convened to deal with a complaint referred by Council. If the charges against a member, member practice or registered student are proven, the Committee will make disciplinary orders setting out the sanctions it considers appropriate. Subject to any appeal by the respondent, the order and findings of the Disciplinary Committee will be published.

For more information, please see:

<http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/disciplinary/>

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## **About HKICPA**

The Hong Kong Institute of Certified Public Accountants ("HKICPA") is the statutory body established by the Professional Accountants Ordinance responsible for the professional training, development and regulation of certified public accountants in Hong Kong. The Institute has more than 44,000 members and 18,000 registered students.

Our qualification programme assures the quality of entry into the profession, and we promulgate financial reporting, auditing and ethical standards that safeguard Hong Kong's leadership as an international financial centre.

The CPA designation is a top qualification recognised globally. The Institute is a member of and actively contributes to the work of the Global Accounting Alliance and International Federation of Accountants.

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## 香港會計師公會對兩名執業會計師及一間執業法團作出紀律處分

(香港，二零一九年十二月十九日) 香港會計師公會轄下紀律委員會，於二零一九年十一月四日就執業會計師陳美美小姐(會員編號：F05390)、執業會計師何耀恒先生(會員編號：A25768)及華融(香港)會計師事務所有限公司(「華融」；執業法團編號：M0331)(統稱「答辯人」)沒有或忽略遵守、維持或以其他方式應用公會頒佈的專業準則，對他們予以譴責。紀律委員會命令由二零一九年十二月十六日起吊銷陳小姐及何先生的執業證書，並分別在 36 個月內及 24 個月內不向他們另發執業證書。此外，紀律委員會命令陳小姐、何先生及華融須分別繳付罰款 150,000 港元、110,000 港元及 200,000 港元，以及共同繳付公會和財務匯報局(「財匯局」)的費用合共 466,869.60 港元。

華融(前稱中磊(香港)會計師事務所有限公司)曾審計香港上市公司中國新電信集團有限公司及其附屬公司(統稱「該集團」)截至二零一一年及二零一二年六月三十日止年度的綜合財務報表。陳小姐是負責該等審計項目的執業董事，而何先生是審計項目的質量控制覆核人。

公會收到財匯局的轉介，指該集團就若干收購交易方面的審計有違規情況。在其中一項收購中，答辯人沒有發現該集團應付的或然代價被不正確地分類及計算。此外，答辯人亦沒有就該等收購所產生的商譽及其他無形資產減值評估執行充分的審計程序及編備完備記錄。

公會考慮所得資料後，根據香港法例第 50 章《專業會計師條例》第 34(1)(a)(vi)條作出投訴。

答辯人承認投訴屬實。紀律委員會裁定：

- (i) 陳小姐及華融沒有或忽略遵守、維持或以其他方式應用以下的專業準則：
- Hong Kong Standard on Auditing (「HKSA」) 200 「Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Hong Kong Standards on Auditing」；
  - HKSA 230 「Audit Documentation」；
  - HKSA 315 「Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment」；
  - HKSA 330 「The Auditor's Responses to Assessed Risks」；
  - HKSA 500 「Audit Evidence」；

- HKSA 540 「Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures」；及
  - HKSA 700 「Forming an Opinion and Reporting on Financial Statements」。
- (ii) 何先生沒有或忽略遵守、維持或以其他方式應用 HKSA 220 「Quality Control for an Audit of Financial Statements」。
- (iii) 陳小姐及何先生分別在履行執業董事及質量控制覆核人的職責時，沒有或忽略遵守、維持或以其他方式應用 Code of Ethics for Professional Accountants 內第 100.5(c)及 130.1 條有關「Professional Competence and Due Care」的基本原則。

經考慮有關情況後，紀律委員會根據《專業會計師條例》第 35(1)條向答辯人作出上述命令。委員會指出公眾期望執業會計師及執業法團以最高標準履行職責及執行工作。答辯人違規令其審計工作及記錄的質素受到負面影響。違規反映答辯人缺乏專業能力，性質嚴重。此外，委員會認為維持公眾對會計專業的信心十分重要，故施加的處罰需具阻嚇力，以防止會計人員違反應有的專業水平。

#### 香港會計師公會的紀律處分程序

香港會計師公會致力維持會計界的最高專業和道德標準。公會根據香港法例第 50 章《專業會計師條例》及紀律委員會訴訟程序規則，成立獨立的紀律委員會，處理理事會轉介的投訴個案。委員會一旦證明對公會會員、執業會計師事務所會員或註冊學生的檢控屬實，將會作出適當懲處。若答辯人未有提出上訴，紀律委員會的裁判將會向外公佈。

詳情請參閱：

<http://www.hkicpa.org.hk/en/standards-and-regulations/compliance/disciplinary/>

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#### **關於香港會計師公會**

香港會計師公會是根據《專業會計師條例》成立的法定機構，負責培訓、發展和監管本港的會計專業。公會會員超過 44,000 名，學生人數逾 18,000。

公會開辦專業資格課程，確保會計師的入職質素，同時頒佈財務報告、審計及專業操守的準則，以鞏固香港作為國際金融中心的領導地位。

CPA 會計師是一個獲國際認可的頂尖專業資格。公會是全球會計聯盟及國際會計師聯合會的成員之一，積極推動國際專業發展。

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IN THE MATTER OF

Complaint made under section 34(1)(A) of the Professional Accountants Ordinance (Cap. 50)

BETWEEN

The Registrar of the Hong Kong Institute of  
Certified Public Accountants

COMPLAINANT

AND

Miss Chan Mei Mei (F05390)

1<sup>st</sup> RESPONDENT

Mr. Ho Yiu Hang Ricky (A25768)

2<sup>nd</sup> RESPONDENT

Asian Alliance (HK) CPA Limited (M0331)

3<sup>rd</sup> RESPONDENT

Before a Disciplinary Committee of the Hong Kong Institute of Certified Public Accountants  
("the Committee")

Members: Ms. LAU, Wan Ching (Chairman)  
Ms. CHAN, Yiting, Bonnie  
Mr. DOO, William Junior Guilherme  
Mr. CLEMENTSON, Rex Alexander  
Mr. LEE, Kwo Hang, Felix

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## ORDER AND REASONS FOR DECISION

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1. There are eight complaints including additional complaint made by the Registrar of the Hong Kong Institute of Certified Public Accountants (the "Institute") against three Respondents pursuant to section 34(1A) of the Professional Accountants Ordinance (Cap. 50) (the "PAO"):

- (1) Seven complaints (Complaints 1, 2, 3, 4, 5, 7, 8) against Miss Chan Mei Mei, a certified public accountant (practising) (Membership no.: F05390) (the "First Respondent");

- (2) Two complaints (Complaints 6, 7) against Mr. Ho Yiu Han Ricky, a certified public accountant (practising) (Membership no.: A25768) (the “**Second Respondent**”);
- (3) Six complaints (Complaints 1, 2, 3, 4, 5, 8) against Asian Alliance (HK) CPA Limited (Corporate practice No. M0331) which only changed into its present name from the original name Zhonglei (HK) CPA Company Limited in May 2016 (the “**Third Respondent**”).

## **Background**

2. The shares of the Neo Telemedia Limited (the “**Company**”) and its subsidiaries (“**Group**”) are listed on Growth Enterprise Market in Hong Kong (stock code: 08167). Its principal activities are the design and production of traffic signboards, computer graphics, advertisements and signal system equipment in the People’s Republic of China.
3. The Third Respondent was the auditor of Company and audited the Company’s financial statements for each of the years ended 30 June 2011 (“**2011 Financial Statements**”) and 2012 (“**2012 Financial Statements**”). The First Respondent was the engagement director and the Second Respondent was the engagement quality control reviewer (“**EQCR**”) of the audits.
4. In January 2017, the Financial Reporting Council (“**FRC**”) referred a report of the Audit Investigation Board (“**AIB**”) dated 15 December 2016 to the Institute pursuant to section 9(f) of the FRC Ordinance, Cap 588. Various audit deficiencies were found and the full details of the complaints are contained in the AIB Report. Subsequently, the particular of the original complaint are set out in a letter dated 12 April 2018 from the Registrar to the Council of the Institute for consideration of referral to the Committee.

## ***Additional Documentation***

5. At the time after 6 p.m. on 27 August 2018 (a day before the original deadline for completion to submit Complainant’s case by the Complainant), the Complainant received over 300 pages of additional audit working papers from the Respondents’ solicitors (the “**Additional Documentation**”) which the Respondents’ solicitors claimed to be relevant to Complaints 3 to 5 and the Respondents’ solicitors also copied this Additional Documentation to the Committee. The Respondents’ solicitors later explained to the Committee that the Additional Documentation was copied to the Committee by mistake. And then it was found out that the Respondents inadvertently provided a marked copy of the Additional Documentation rather than the original unmarked copy.
6. After then, a series of directions were given by the Committee in relation to the issues arising from the Additional Documentation and the future conduct of proceedings. With leave, the Complainant submitted the Complainant’s case on 28 November 2018 and revised Complaint on 4 January 2019.
7. On 1 February 2019, the Committee received parties’ joint application to submit the further revised complaint (“**Further Revised Complaint**”) in which the Respondents confirmed their admission of the complaints against them and did not dispute the facts and observation as set out in this Further Revised Complaint.



8. In view of the Respondents' admission, the Committee finds all seven complaints against the First Respondent, two complaints against the Second Respondent and six complaints against the Third Respondent to be proven and acceded to the parties' joint application to dispense with the steps set out in paragraphs 17 to 25 of the Disciplinary Committee Proceedings Rules (the "**Rules**") and directed the parties to make written submissions on sanctions and costs.

## **Complaints**

### ***Summary of Principal Issues***

9. The crux of the eight complaints ("**Complaints**") is set out in the Further Revised Complaint in which Complaint 8 is newly added complaint. In summary, various audit deficiencies in the following areas relating to the Complaints were found:
- (1) The Respondents concurred with the incorrect measurement and classification of contingent consideration ("**Contingent Consideration**") relating to acquisition of Ease Ray Limited ("**Ease Ray**") and its subsidiaries ("**Ease Ray Group**") ("**Ease Ray Acquisition**") in 2011 and 2012, contrary to the requirements in HKFRS 3;
  - (2) The Respondents failed to perform sufficient audit procedures to assess the impairment of goodwill and intangible assets arising from the Ease Ray Acquisition in 2011;
  - (3) The Respondents failed to perform sufficient audit procedures to assess the impairment of goodwill arising from the acquisition of China Wimetro Communications Company Limited ("**China Wimetro Acquisition**");
  - (4) The Respondents failed to perform sufficient audit procedures to assess the impairment of intangibles and goodwill arising from the acquisition of Smart Long Limited ("**Smart Long Acquisition**").

### ***Complaint 1***

10. Section 34(1)(a)(vi) of the PAO applied to the First and Third Respondents regarding the classification and measurement of Contingent Consideration in relation to Ease Ray Acquisition in the 2011 Financial Statements in that they had failed to properly perform their audit and comply with the following professional standards:
- (1) Paragraph 25 of Hong Kong Standard on Auditing ("**HKSA**") 315;
  - (2) Paragraph 6 of HKSA 330;
  - (3) Paragraph 6 of HKSA 500;
  - (4) Paragraph 20 of HKSA 200;
  - (5) Paragraph 18 of HKSA 540;
  - (6) Paragraphs 10 and 12 of HKSA 700.

### ***Complaint 2***

11. Section 34(1)(a)(vi) of the PAO applied to the First and Third Respondents regarding the prior year adjustment made in the 2012 Financial Statements to reclassify the Contingent Consideration arising from the Ease Ray Acquisition from equity to financial liability in that they failed to re-measure the opening fair value of the Contingent Consideration at 1 July 2011, contrary to the requirements of paragraph 6 of HKSA 500, paragraph 20 of HKSA 200, paragraph 18 of HKSA 540, and paragraphs 10 and 12 of HKSA 700.

### ***Complaint 3***

12. Section 34(1)(a)(vi) of the PAO applied to the First and Third Respondents regarding the impairment assessment on goodwill and intangible assets arising from Ease Ray Acquisition in 2011 Financial Statements in that they failed to properly perform their audit and comply with the following professional standards:
  - (1) Paragraph 6 of HKSA 330;
  - (2) Paragraph 13 of HKSA 540;
  - (3) Paragraphs 6 and 8 of HKSA 500.

### ***Complaint 4***

13. Section 34(1)(a)(vi) of the PAO applied to the First and Third Respondents regarding the impairment assessment on goodwill in 2011 Financial Statements arising from the China Wimetro Acquisition in that they failed to properly perform their audit and comply with the following professional standards:
  - (1) Paragraph 6 of HKSA 330;
  - (2) Paragraph 13 of HKSA 540;
  - (3) Paragraphs 6 and 8 of HKSA 500.

### ***Complaint 5***

14. Section 34(1)(a)(vi) of the PAO applied to the First and Third Respondents regarding the goodwill and intangibles arising from the Smart Long Acquisition on acquisition date in the 2012 Financial Statements in that they failed to properly perform their audit and comply with the following professional standards:
  - (1) Paragraph 13 of HKSA 540;
  - (2) Paragraphs 6 and 8 of HKSA 500.

### ***Complaint 6***

15. Section 34(1)(a)(vi) of the PAO applied to the Second Respondent in that, as the EQCR for the audits, he failed to properly carry out quality control review procedures in compliant with paragraph 20 of HKSA 220.

### ***Complaint 7***

16. Based on Complaints 1 to 6, section 34(1)(a)(vi) of the PAO applied to the First and Second Respondents in that they failed to comply with the fundamental principle of Professional Competence and Due Care of the Code of Ethics for Professional Accountants ("COE").

### ***Complaint 8***

17. Section 34(1)(a)(vi) of the PAO applied to the First and Third Respondents in relation to the impairment assessments on goodwill and intangible assets arising from the China Wimetro Acquisition and/or the Smart Long Acquisition and/or the Ease Ray Acquisition in the 2011 and 2012 Financial Statements in that the First and Third Respondents failed to prepare any or any adequate audit documentation of the audit work performed, in breach of paragraphs 8 to 10 of HKSA 230.

## **Particulars of Complaints 1 and 2**

### ***Relevant Professional Standards to Complaint 1***

18. Complaint 1 and 2 are both concerned about the Contingent Consideration. In relation to Complaint 1, the Committee has been referred by the Complainant to the following extracts from the relevant professional standards:
  - (1) contingent consideration as defined and stipulated in Hong Kong Financial Reporting Standards ("HKFRS") 3 (Business Combinations) and its relevant paragraph 40:
    - HKFRS 3 defines contingent consideration as: "Usually, an obligation of the acquirer to transfer additional assets or equity interests to the former owners of an acquire as part of the exchange for control of the acquire if specified future events occur or conditions are met ..."
    - Paragraph 40 of HKFRS 3 states, "the acquirer shall classify an obligation to pay contingent consideration as a liability or as equity on the basis of the definitions of an equity instrument and a financial liability in para 11 of HKAS 32 ..."
  - (2) The financial liability as defined in paragraph 11 of HKAS 32 (Financial Instruments: Presentation):
    - "any liability that is ... (b) a contract that will or may be settled in the entity's own equity instruments and is (i) a non-derivative for which the entity is or may be obliged to deliver a variable number of the entity's own equity

instruments ...". An equity instrument is defined as "any contract that evidences a residual interest in the assets of an entity after deducting all of its liabilities".

- (3) Identifying and assessing the risks of material misstatement as stipulated in paragraph 25 of HKSA 315 (Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and its Environment):
  - "The auditor shall identify and assess the risks of material misstatement at (a) the financial statement level and (Ref: Para. A118-A121) (b) the assertion level for classes of transactions, account balances, and disclosures, (Ref: Para A122-A126) to provide a basis for designing and performing further audit procedures."
- (4) Audit procedures responsive to the assessed risks of material misstatement at the assertion level as stipulated in paragraph 6 of HKSA 330 (The Auditor's Responses to Assessed Risks):
  - "the auditor shall design and perform further audit procedures whose nature, timing and extent are based on and are responsive to the assessed risks of material misstatement at the assertion level."
- (5) Requirements to have sufficient appropriate audit evidence as stipulated in Paragraph 6 of HKAS 500 (Audit Evidence):
  - "The auditor shall design and perform audit procedures that are appropriate in the circumstances for the purpose of obtaining sufficient appropriate audit evidence."
- (6) Conduct of an audit in accordance with HKSAs in complying with HKSAs relevant to the audit as stipulated in Paragraph 20 of HKSA 200 (Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Hong Kong Standards on Auditing):
  - "The auditor shall not represent compliance with HKSAs in the auditor's report unless the auditor has complied with the requirements of this HKSA and all other HKSAs relevant to the audit."
- (7) Evaluating the reasonableness of the accounting estimates, and determining misstatements as stipulated in Paragraph 18 of HKSA 540 (Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures):
  - "The auditor shall evaluate, based on the audit evidence, whether the accounting estimates in the financial statements are either reasonable in the context of the applicable financial reporting framework, or are misstated."
- (8) Requirements in forming an opinion on the financial statements as stipulated in Paragraphs 10 and 12 of HKSA 700 (Forming an Opinion and Reporting on Financial Statements):

- Paragraph 10 of HKSA 700 states, "The auditor shall form an opinion on whether the financial statements are prepared in all material aspects, in accordance with the applicable financial reporting framework.
- Paragraph 12 of HKSA 700 states, "The auditor shall evaluate whether the financial statements are prepared in all material respects, in accordance with the requirements of the applicable financial reporting framework. This evaluation shall include consideration of the qualitative aspects of the entity's accounting practices, including indicators of possible bias in management's judgements. (Ref: Para A1-A3)"

***Facts and circumstances in support of Complaint 1***

19. The crux of the issues in Complaints 1 and 2 concerned the Respondents' failure to classify and measure the contingent consideration in relation to the Ease Ray Acquisition in the year ended 30 June 2011 and to re-measure the contingent consideration at fair value in the year ended 30 June 2012. Given the Respondents' admission, it is not necessary to set out the factual details in support of Complaint 1 and 2 in full.
20. However, the Committee notes the following factual circumstances in relation to Complaint 1 for the purpose of considering appropriate sanction.
- (1) On 29 April 2011, the Group completed the Ease Ray Acquisition. The 2011 annual report disclosed that the Company had entered into a conditional agreement with Vendor A for the acquisition of the entire issued share capital of Easy Ray at a consideration of HK\$1,100 million, subject to downward adjustment according to the terms of the agreement. However, the maximum downward adjustment was up to the total consideration of the 2nd batch Consideration Shares of HK\$304.5 million and the Vendor A was not required to return to the Company any of the 1st batch Consideration Shares that had already been issued.
- (2) In the 2012 Financial Statements, a prior period adjustment was made. Note 3 to the financial statements disclosed that an error in the consolidated financial statements was identified by the directors of the Company subsequent to the issue of the 2011 Financial Statements and the Company had recognized the fair value of the Ease Ray 2nd batch Consideration Shares in "Capital and Other Reserve" as an equity in the 2011 Financial Statements. During that current year, the directors of the Company discovered that the number of the Ease Ray 2nd batch Consideration Shares to be issued would vary depending on the audited results of Ease Ray and its subsidiaries for the year ended 31 December 2011.
- (3) The prior period restatement of \$220.5 million reduced the consolidated net assets of the Group as at 30 June 2011 by 19.9%. The financial impact of the restatement is as follows:

	<u>Before Restatement</u>	<u>After Restatement</u>
Contingent payable	---	220.5 million
Capital and other reserve	238.1 million	17.6 million

21. In the AIB report, the following audit deficiencies in regard to the classification and the measurement of Contingent Consideration (which are admitted by the Respondents) are identified :

Classification of Contingent Consideration

- (1) During planning, the Respondents failed to identify the classification and measurement of the contingent consideration as one of the risks of material misstatement as it involved significant management judgement and estimation; and thus they failed to design and implement responses to address the risks, thus, non-compliance with paragraph 25 of HKSA 315 and paragraph 6 of HKSA 330;
- (2) the Respondents analyzed incorrectly the nature of the 2nd batch of Consideration Shares in their 2011 working paper titled "Consol note – Acquisition of subsidiaries" by claiming that the adjustment formula (i.e. 10 times) and the range of adjustment (i.e. Maximum downward) had been fixed, there was no variable factor. Therefore, it could not fulfil the definition of financial liability.
- (3) As stated in 2012 working paper "Consol Note – Prior year adjustment", the management concluded and the Respondents concurred that there was an error in the 2011 Financial Statements. A prior year adjustment was required so as to reclassify the Contingent Consideration from equity into liabilities

Measurement of Contingent Consideration

- (4) According to the 2011 Financial Statements, it was disclosed that Easy Ray contributed HK\$5.872 million to the consolidated loss of the Group in the post-acquisition 2-month period. A valuation report estimated that the turnover of Ease Ray for the year ended 31 December 2011 were RMB 141 million; and profit after tax of RMB 51.5 million. Given the low amount of post-acquisition profit, Ease Ray might not be able to meet its profit target as shown on the valuation report. This would affect the valuation of the Contingent Consideration.
- (5) The audit work of the Respondents was limited to (i) reviewing the sales and purchase agreement terms and discussing those terms with management; (ii) enquiring the basis and computation of the fair value of the Contingent Consideration; and (iii) assessing the Company's accounting treatment. However, the Respondents had not adequately challenged the reasonableness of the management's assertion that the reference profit is 100% achievable, given that management's assertion may not be achievable in light of actual results achieved to date (2 months' post acquisition profit of HK\$5.8 million, against a 12-month target of HK\$51.5 million).
- (6) The Respondents also failed to identify that the valuation report dated 26 September 2011 was not prepared for the purpose of providing, and did not provide, the acquisition date fair value of the Contingent Consideration but was prepared based on instructions to measure the fair values of the identified assets and the business enterprise value of Ease Ray indeed.

### ***Relevant Professional Standards to Complaint 2***

22. In relation to Complaint 2, the Committee has been referred by the Complainant to the following extracts from the relevant professional standards:

(1) contingent consideration as stipulated in Paragraph 39 of HKFRS 3:

- "the acquirer shall recognise the acquisition date fair value of contingent consideration as part of the consideration transferred in exchange for the acquirer."

(2) contingent consideration as stipulated in Paragraph 58 of HKFRS 3:

- "The acquirer shall account for changes in the fair value of the contingent consideration that are not measurement period adjustments as follows: ...  
(b) Contingent consideration classified as an asset or a liability that: (i) is a financial instrument and is within the scope of HKAS39 shall be measured at fair value with any resulting gain or loss recognised either in their profit or loss or in other comprehensive income in accordance with that HKFRS ..."

### ***Facts and circumstances in support of Complaint 2***

23. The Committee notes the following factual circumstances in relation to Complaint 2 for the purpose of considering appropriate sanction.

(1) In the 2012 Balance Sheet, the financial liability payable (in the comparative 2011 figures) was stated at HK\$220.5 million (2,100 million shares @HK\$0.105), and it included a reclassification adjustment from equity to liability. However, there was no re-measurement of fair value of the amount as at 1 July 2011. And from Note 39(b) to the 2012 Financial Statements, it was disclosed that Ease Ray Group could not achieve the Reference Profit.

(2) The Respondents gave various reasons for the Company's failure in relation to the classification and measurement of the Contingent Consideration in 2011, ranging from referring to a subsequent 2013 amendment of HKFRS 3, HKFRS 2, and also inter alia, that the share price as at 30 June 2011 was not a reasonable basis for re-measurement of the fair value of the Contingent Consideration because:

- (a) there was only approximately 2 months between the date of acquisition of Ease Ray i.e. 29 April 2011 and the end of the reporting period, 30 June 2011;
- (b) prior to share consolidation on 30 June 2011, the share price of the Company was abnormally decreased from HK\$0.105 per share to HK\$0.050 per share;
- (c) If the share price of the Company at the end of the reporting date of 30 June 2011 was used to re-measure the Contingent Consideration as at 30 June 2011, a significant gain would be recognised in the 2011 Financial Statements and thus it would significantly distort the consolidated financial statements.

- (d) the Contingent Consideration should have been classified under HKAS 37 and could be re-classified from equity to financial liability without re-measuring the fair value.

24. The Committee agrees with the submission of the Complainant and notes that:

(1) in relation to the Complaint 1, the Respondents:

- (a) failed to perform additional procedures to ascertain management's projection such as, testing the management's significant assumptions underlying the profit projection or assessing the progress of the execution of the MOUs and installation of traffic lights in each province as it would directly impact turnover and profit figures;
- (b) failed to properly identify the risk relating to Contingent Consideration during planning and design appropriate audit procedures to address the risks;
- (c) failed to perform sufficient appropriate audit procedures on the classification and measurement of Contingent Consideration;
- (d) failed to comply with various HKSAs but they represented that they had complied with them in the auditor's report;
- (e) failed to evaluate properly the valuation on Contingent Consideration; and
- (f) failed to issue a modified opinion in relation to the classification and measurement of the Contingent Consideration.

(2) in relation to the Complaint 2, the Respondents:

- (a) failed to re-measure the Contingent Consideration at fair value upon the re-classification as liability in financial statement for the year ended 2012. None of the above Respondents' explanation was valid reasons for the non-compliance with paragraph 58 of HKFRS 3 Further, paragraphs 48A and AG 71 of HKAS 39 states that the best evidence of fair value is quoted prices in an active market;
- (b) failed to perform sufficient appropriate audit procedures on the measurement of Contingent Consideration;
- (c) failed to comply with various HKSAs but they represented that they had complied with them in the auditor's report;
- (d) failed to evaluate properly the valuation on Contingent Consideration; and
- (e) failed to issue a modified opinion in relation to the measurement of the Contingent Consideration.

25. From above, the Committee concludes that Complaint 1 and Complaint 2 are established and the First and Third Respondents have acted in breach of the professional standards as charged.



## **Particulars of Complaints 3, 4 and 5**

### ***Relevant Professional Standards to Complaint 3***

26. In relation to Complaint 3, the Committee has been referred by the Complainant to the following extracts from the relevant professional standards:

- (1) Information to be used as audit evidence as stipulated in Paragraph 8 of HKSA 500:
  - "If information to be used as audit evidence has been prepared using the work of a management's expert, the auditor shall, to the extent necessary, having regard to the significance of that expert's work for the auditor's purposes: (Ref: Para A34-A36) (a) evaluate the competence, capabilities and objectivity of that expert; (Ref: A37-A43) (b) obtain an understanding of the work of that expert; and (Ref: Para A44-A47) (c) evaluate the appropriateness of that expert's work as audit evidence for the relevant assertion. (Ref: Para A48)"
- (2) Evaluating the appropriateness of the management's expert's work as stipulated in Paragraph A48 of HKSA 500:
  - "Considerations when evaluating the appropriateness of the management's expert's work as audit evidence for the relevant assertion may include:
    - The relevance and reasonableness of that expert's findings or conclusions, their consistency with other audit evidence, and whether they have been appropriately reflected in the financial statements.
    - If that expert's work involves use of significant assumptions and methods, the relevance and reasonableness of those assumptions and methods; and
    - If that expert's work involves significant use of source data, the relevance, completeness, and accuracy of that source data."
- (3) Responses to the assessed risks of material misstatement stipulated in Paragraph 13 of HKSA 540:
  - "In responding to the assessed risks of material misstatement, as required by HKSA 330, the auditor shall undertake one or more of the following, taking account of the nature of the accounting estimates (Ref: Para A59-A61)
    - (a) Determine whether events occurring up to the date of the auditor's report provide audit evidence regarding the accounting estimate. (Ref: Para A62-A67)
    - (b) Test how management made the accounting estimate and the data on which it is based. In doing so, the auditor shall evaluate whether (Ref: Para A68-A70) (i) The method of measurement used is appropriate in the circumstances (Ref: Para A71-A76); and (ii) The assumptions used

by management are reasonable in light of the measurement objectives of the applicable financial reporting framework (Ref: Para A77-A83)"

***Facts and circumstances in support of Complaint 3***

27. Complaint 3 to 5 are concerned about the assessment of the impairment of goodwill and intangible assets in relation to the Ease Ray Acquisition in the year ended 30 June 2011 (Complaint 3) and to the Smart Long Acquisition in the year ended 30 June 2012 (Complaint 5), also of the impairment of goodwill in relation to the China Wimetro Acquisition in the 2011 Audit (Complaint 4) respectively. Given the Respondents' admission, it is not necessary to set out the factual details in support of Complaint 3 to 5 in full.
28. However, the Committee notes the following factual circumstances in relation to Ease Ray Acquisition for the purpose of considering appropriate sanction of Complaint 3:
- (1) The Group recognized, amongst others, the intangible asset and goodwill as stated in the 2011 Financial Statements in relation to the Ease Ray Acquisition were HK\$185.9 million and HK\$711.4 million respectively. However, Note 34 to the 2012 Financial Statements disclosed that impairment losses recognized on intangible asset and on goodwill were HK\$99.1 million and HK\$425.7 million respectively.
  - (2) Note 20 to the 2011 Financial Statements states, "...The calculation is based on i) the profit forecast approved by the management covering a 5 year period and ii) a discount rate of 21.54% per annum ..." The Respondents admitted in the letter to the FRC dated 13 October 2016 that there was an error in disclosure concerning the WACC used in impairment assessment. The WACC used should be 20.52% instead of 21.54%.
29. The Committee notes that the Respondents had made various explanations to AIB in different occasions and the gist of their explanations is summarized as follows:
- (1) The Respondents documented in 2011 audit working paper "Ease Ray Group - Discussion Memo" that they had enquired with management for the turnover projection and the Group had signed 13 MOUs at 13 provinces to build traffic lights; the management had shown them some copies of the MOUs and suppliers agreement; and they assessed the above against the suppliers' production capacity.
  - (2) In response to the AIB's enquiries, the Respondent's explanation was that they had obtained the valuation report, met with the valuers and the Company to discuss, reviewed the profit forecast of Ease Ray and obtained related supporting documents and letter of representations from management. Based on the above, they concurred with the management that no impairment of goodwill and intangible assets on Ease Ray Group as at 30 June 2011.
  - (3) Having found that the audit procedures performed by the Respondents failed to (a) adequately challenge the feasibility and execution progress of the MOUs; (b) adequately assess the progress of the installation of the traffic lights; (c) test and assess the source data used, such as projected revenue and costs, and reasonableness of profit margins, the AIB provided their draft findings to the

Respondents. The Respondents made additional representations in their letter of 13 October 2016 and explained that there were more than 240 traffic LED lights installed on a trial run basis; 1,700 LED traffic lights installed on a permanent basis; they conducted "sight visit" on a sample basis; further, trial runs for 8 MOUs were successful; and they also performed 'proof in total' exercise and estimated 40,000 LED lights could be installed. The Respondents also added they did make the comparison and then provided their views on the actual and projected turnover and profit in their submissions to the FRC.

- (4) The Respondents then further represented to the Institute that they had performed all the audit procedures which they had described in their last letter to the FRC that the documentation may not have been included in the current audit papers or the correspondences that were previously provided for investigation. And, written evidence of audit procedures performed by them can be found in piecemeal working papers filed in the permanent, reference and company file. Also, they admitted that there was room for improvement in their documentation and they did not have a systematic documentation policy in place in 2011 and 2012.
  - (5) Before the FRC sent the draft findings to the Respondents, the Respondents had been given the opportunity to state their work done on the impairment assessment. However, none of the work subsequently represented by the Respondents was included in the working paper and the first round of submissions they made to the FRC. And the Respondents only raised their additional audit procedures for the first time in their letter of 13 October 2016 to the AIB ("**Additional Audit Procedures**") and alleged to be supported by the Additional Documentation. But the Additional Documentation was not provided to either the AIB or the Institute during the investigation.
30. From above, the Respondents:
- (1) failed to meet the requirement for auditors to design and perform audit procedures whose nature, timing and extent are based on and are responsive to the assessed risks of material misstatement at the assertion level;
  - (2) failed to properly assess management's estimates and the feasibility of the projections and compared them with the actual results available during the audit; and
  - (3) failed to understand the experts' work and evaluate if the expert's work could be appropriately used as evidence.
31. The Committee concludes that Complaint 3 is established and the First and Third Respondents have acted in breach of the professional standards as charged.

***Facts and circumstances in support of Complaint 4***

32. The Committee notes the following factual circumstances in relation to China Wimetron Acquisition for the purpose of considering appropriate sanction of Complaint 4:

- (1) According to Note 20 to the 2011 Financial Statements, the goodwill arising from China Wimetro Acquisition during the year ended 30 June 2010 amounted to HK\$47 million.
  - (2) According to Note 23 to the 2012 Financial Statements, the entire carrying value in 2012 was impaired and the circumstances leading to the impairment as stated were that with the improvement of network bandwidth, the business mode would change to that integrating mobile network and internet, therefore, the China Wimetro Group did not renew the license of Shenzhen 950 which expired in December 2011 and became inactive afterward. Under this circumstance, the directors of the Company had therefore decided to fully write off the goodwill arose from the China Wimetro Acquisition during the year ended 30 June 2012.
33. The Committee notes various explanation and/or response had been made by the Respondents regarding the impairment of goodwill in relation to the China Wimetro Acquisition in the 2011 Audit, the gist is listed as follows:
- (1) The Respondents documented in the 2011 working paper "China Wimetro Group - Discussion Memo", amongst others, that: (i) they had noted management's representations that there were continuous rapid development of internet in China, and demands for mobile value-added services; (ii) they reviewed the contract signed which guaranteed that the sale amount would be no less than RMB 50 million; (iii) they reviewed management's projections and confirmed that they were achievable.
  - (2) Responding to the AIB on the audit work done regarding impairment assessment, the Respondents represented that they had (i) obtained the valuation report, met with the valuers and the Company to discuss impairment assessment in respect of goodwill and intangible assets; (ii) reviewed the profit forecast of China Wimetro and obtained related supporting documents from management; (iii) obtained letter of representation from management. Based on the above, they concurred with the management that no impairment of goodwill and intangible assets on China Wimetro as at 30 June 2011.
  - (3) After the AIB found that the audit procedures performed failed to (a) consider the impact of the potential expiration of the license; (b) sufficiently review or test the source data and assumptions used, including the reasonableness of the projected turnover. After the AIB had provided the Respondents with their draft findings, the Respondents made additional representations on audit work done in the letter dated 13 October 2016 in which the Third Respondent added in regard to the assessment of the RMB 50 million guaranteed sales, (i) they reviewed the terms of the contract in that the group would be compensated for the shortfall; and (ii) they had arranged independent information search on the distributor and it was not a related party; also (iii) they analyzed sales and repayment history of the distributor. The Respondents also added in regard to impact of the potential expiration of license, (i) they did note the co-operation agreement would expire in December 2012; (ii) there were good relationship maintained with the supplier; (iii) they had sighted a signed confirmation from the supplier and they confirmed that the term could be extended. In addition, in regard to the AIB's challenging the Respondents' knowledge of the industry, the Respondents added that during planning, they carried out researches on China's internet development. However,

it is noted that there was no evidence showing that the Respondent had adequately assessed the impact of the potential expiration of the license during the audit.

34. From above, the Respondents:

- (1) failed to meet the requirement for auditors to design and perform audit procedures whose nature, timing and extent are based on and are responsive to the assessed risks of material misstatement at the assertion level;
- (2) failed to have properly assessed management's assumptions and the feasibility of the projections and compared them with the actual data or the business environment; and
- (3) failed to understand the experts' work and evaluate if the expert's work could be appropriately used as audit evidence.

35. The Committee concludes that Complaint 4 is established and the First and Third Respondents have acted in breach of the professional standards as charged.

***Facts and circumstances in support of Complaint 5***

36. The Committee notes the following factual circumstances in relation to Smart Long Acquisition for the purpose of considering appropriate sanction:

- (1) In regard to Smart Long Acquisition, Note 39 to the 2012 Financial Statements disclosed that goodwill of HK\$134.6 million and intangible assets of HK\$31.8 million were initially recognized.
- (2) However, the Group made impairment provisions of approximately HK\$68.854 million and HK\$10.231 million against goodwill and intangibles respectively in 2012.

37. The Committee notes the Respondents provided various representations to explain the circumstances leading to the impairment provisions and it is summarized as follows:

- (1) The 2012 Financial Statements stated that after the Group completed Smart Long Group Acquisition, Smart Long Group was granted an exclusive right to sell and market the high temperature superconducting (“HTS”) filtering solutions in Guangdong and Guangxi, the PRC. During the year ended 30 June 2012, the development and profitability of Smart Long Group was adversely affected due to the following factors:
  - (a) There was a supply shortage of HTS filters;
  - (b) Smart Long Group’s major customers, i.e. the major telecommunication operators in the PRC, changed their procurement policy causing the procurement process of these operators delayed;
  - (c) The fierce competition among network equipment manufacturers made the price of base station fall remarkably. The dominance of the HTS system in the market share of network optimization market was therefore adversely affected; and

- (d) Major customer which was a major telecommunication operator had reduced its investment in network equipment so as to utilize such fund to implement their marketing strategies, such as various kinds of subsidies to their subscribers.
  - (2) Two working papers i.e. a discussion memo titled "Valuation report of business enterprise value of Guangdong Wisys Communication Co., Limited (廣東兆鴻通訊技術有限公司) at 30 June 2011" and a valuation report only set out the assumptions used by management and the Respondents' endorsement of those assumptions. The audit work done included checking the exclusive rights to the contracts signed but other work performed could not be identified by the AIB.
  - (3) The Respondents provided additional representations in the letter dated 13 October 2016 in relation to their work performed on the recognition of the intangible assets, that is, (i) they should have properly documented their work; (ii) they noted the Chinese government's efforts to promote internet development and it was management's plan to supply China Telecom to provide the filtering solution; and (iii) some of the filtering solutions had been installed in some telco cities of China Telecom. They had obtained reports that China Telecom had positive feedbacks on the filtering solution.
38. The Committee agrees with the finding of AIB that there was no evidence showing an adequate assessment of the assumptions used in the valuation, for example, assumptions on projections of the turnover, gross margin, capital expenditure; and the methodology applied. The Respondents also failed to test the reasonableness of the projections, compared them against actual financial performance and market data. After the Respondents provided with additional representations, the Complainant found the audit work remained insufficient and inadequate even if those procedures had been performed and the authenticity of the Additional Audit Procedures concerning the Smart Long Acquisition was not in dispute.
39. From above, the Respondents:
- (1) failed to properly assess the assumptions used in the valuation and failed to test the reasonableness of the projections; and
  - (2) failed to understand the expert's work and evaluate if the expert's work could be appropriately used as evidence.
40. The Committee concludes that Complaint 5 is established and the First and Third Respondents have acted in breach of the professional standards as charged.

## **Particulars of Complaint 6**

### ***Relevant Professional Standards to Complaint 6***

41. The Committee has been referred by the Complainant to the following extracts from the relevant professional standards related to the Complaint 6:
- (1) Engagement quality control review as stipulated in Paragraph 20 of HKSA 220

- Paragraph 20 of HKSA 220 states, "The engagement quality control reviewer shall perform an objective evaluation of the significant judgements made by the engagement team, and the conclusions reached in formulating the auditor's report. This evaluation shall involve: (a) Discussion of significant matters with the engagement partner; (b) Review of the financial statements and proposed auditor's report; (c) Review of selected audit documentation relating to the significant judgments the engagement team made and the conclusion it reached; and (d) Evaluation of the conclusions reached in formulating the auditors' report and consideration of whether the proposed auditor's report is appropriate (Ref: Para A26-A27, A29-A31)"

### ***Facts and circumstances in support of Complaint 6***

42. Complaint 6 concerns the objective evaluation which should be performed by the EQCR on the various valuation reports, and the judgements made by the engagement team. Given the Respondents' admission, it is not necessary to set out the factual details in full. However, the Committee notes the following factual circumstances for the purpose of considering appropriate sanction.
- (1) The Second Respondent confirmed to the FRC that he had performed the following: (i) Review of acceptance procedures; (ii) Review of audit planning memorandum; (iii) Sign off audit planning declaration; (iv) Review auditor's report and financial statements 2011 and 2012; and sign off the report record; (v) Review audit summary memorandum; and (vi) Sign off audit completion declaration.
  - (2) There was no evidence showing the Second Respondent had: (i) performed a proper quality control review on Contingent Consideration and impairment assessment of goodwill and intangible assets; (ii) identified the non-compliance with the HKFRSs and auditing requirements.
43. From above, the Second Respondent failed to perform a diligent engagement quality control review. The Committee concludes that Complaint 6 is established and the Second Respondent has acted in breach of the professional standards as charged.

### **Particulars of Complaint 7**

#### ***Relevant Professional Standards to Complaint 7***

44. The Committee has been referred by the Complainant the following extracts from the relevant professional standards related to the Complaint 7:
- (1) Fundamental principles as stipulated in Section 100.5 (c) and professional competence and due care as stipulated in section 130.1 of the COE.
    - Section 100.5 (c) and 130.1 of the COE states, "A professional accountant shall comply with the following fundamental principles: ... (c) Professional Competence and Due Care – to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation

and techniques and act diligently and in accordance with applicable technical and professional standards; ... "

- "130. 1 The principle of professional competence and due care imposes the following obligations on professional accountants: (a) To maintain professional knowledge and skill at the level required to ensure that clients or employees receive competent professional service; and (b) To act diligently in accordance with applicable technical and professional standards when providing professional services."

### ***Facts and circumstances in support of Complaint 7***

45. The facts and circumstances giving rise to Complaint 7 are the same as those which gave rise to Complaints 1 to 5, which have already been referred to above. And the above non-compliances showed that the First and Second Respondents did not have proper regard to the relevant professional standards when they performed the audit:
- (1) Regarding Complaints 1 and 2, the Respondents' justifications show that they had multiple misunderstandings and misconceptions regarding the applicable accounting standards.
  - (2) Regarding Complaints 2 to 5, the Respondents responded with explanation and alleged audit procedures which were not documented or inadequately documented in audit working papers. The Respondents audit work was seriously inadequate and limited to endorsing the Company's assumptions and explanations without adequate work or assessment against the requirements of the relevant professional standards. This is evident in the Respondents' audit work on the valuation assessment of the various acquisitions. The Respondents did not have due regard of the accounting standards in force and they committed repeated errors on the classification and measurement of contingent consideration, and on the assessments of goodwill and intangible assets.
46. From above, the First and Second Respondents failed to comply with the fundamental requirement of professional competence and due care. The Committee concludes that Complaint 7 is established and the First and Second Respondents have acted in breach of the professional standards as charged.

### **Particulars of Complaint 8**

#### ***Relevant Professional Standards to Complaint 8***

47. The Committee has been referred by the Complainant to the following extracts from the relevant professional standards related to the Complaint 8:
- (1) Form, content and extent of audit documentation in regard to the documentation of the audit procedures performed and audit evidence obtained as stipulated in Paragraphs 8 to 10 of HKSA 230
    - "8. The auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to



understand: (a) The nature, timing and extent of the audit procedures performed to comply with the HKSAs and applicable legal and regulatory requirements; (b) The results of the audit procedures performed, and the audit evidence obtained; and (c) Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgements made in reaching those conclusions.”

- “9. In documenting the nature, timing and extent of audit procedures performed, the auditor shall record: (a) The identifying characteristics of the specific items or matters tested; (b) Who performed the audit work and the date such work was completed; and (c) Who reviewed the audit work performed and the date and extent of such review.”
- “10. The auditor shall document discussions of significant matters with management, those charged with governance, and others, including the nature of the significant matters discussed and when and with whom the discussions took place.”

### ***Facts and circumstances in support of Complaint 8***

48. The facts and circumstance in support of Complaint 8 concern that the Additional Audit Procedures and the Additional Documentation, which have already been referred to above. Given the Respondents’ admission, it is not necessary to set out the factual details in full. However, the Committee notes the following factual circumstances for the purpose of considering appropriate sanction:

- (1) The First and Third Respondents failed to prepare any or any adequate audit documentation of the Additional Audit Procedures under paragraphs 8 and/or 10 of HKSA 230;
- (2) The Additional Documentation, by itself, would not be an adequate documentation under paragraph 8 of HKSA 230, as it would not enable an experienced auditor, with no previous connection with the audits, to understand (inter alia) the nature, extent or results of the audit procedures performed; and
- (3) Further, the Additional Documentation failed to record the identifying characteristics of the specific items or matters tested, who performed the audit work and the date the work was completed, and who reviewed the audit work performed and the date and extent of such review, as required under paragraph 9 of HKSA 230.

49. From above, the Respondents failed to prepare any or any adequate audit documentation of the audit work performed. The Committee concludes that Complaint 8 is established and the First and Third Respondents have acted in breach of the professional standards as charged.

### **Sanctions and costs**

50. The Complainant and Respondents filed their submission on sanctions and costs on 25 March 2019. On 1 April 2019, the Respondents were granted with leave to file their

supplemental submission in response to the Complainant's submission on sanctions and costs by 29 April 2019. On 16 May 2019, the Complainant filed their supplemental submission in compliance with the Committee's direction to provide response confined to issues arising from two specific paragraphs in the Respondents' supplemental submission dated 29 April 2019 only.

51. The Committee has considered all submissions of the parties including their supplemental submissions in relation to sanctions and costs and does not propose to set out herein all their submissions made.
52. In gist, the Respondents submitted that their breaches should be viewed as "moderately serious" in accordance with the Institute's Guideline to Disciplinary Committee for Determining Disciplinary Orders issued in October 2017 ("**Guideline**") and was only a technical accounting breach, it is not necessary or reasonable for the Committee to consider the imposition of cancellation of practicing certificates to the Respondents and the Respondents submitted the appropriate sanctions against the Respondents would be:
  - (1) For the First Respondent: a reprimand and a penalty of HK\$90,000
  - (2) For the Second Respondent: a reprimand and a penalty of HK\$70,000
  - (3) For the Third Respondent: a reprimand and a penalty of HK\$120,000
53. Also, the Committee has considered all cases referred by the parties and it is noted that both Complainant and the Respondents had specific submission to four cases i.e. the Disciplinary Proceedings No. D-16-1222F, D-15-1095F, D-03-IC13Q (a combination of three cases) and D-11-0615C. And the Committee acknowledges that each case is decided based on its own facts and circumstances such that the previous decisions as to sanctions imposed are of reference value only. And the Committee has a margin of discretion in deciding the appropriate sanctions to maintain the standards of the profession, see *Registrar of the Hong Kong Institute of Certified Public Accountants v Leung Kam Man Victor* (CACV37/2016, unreported judgment on 17 January 2017).
54. In Disciplinary Proceedings No. D-16-1222F, the respondents failed to recognise the contingent consideration as a financial liability and failed to measure the convertible bond's fair value or failed to assess the reasonableness of the management's assumption with respect to the probability of achieving the target profit, also the auditors failed to challenge the appropriateness and reasonableness of management's assumptions and valuation. However, in the present case, the Respondents claims that there are "greyness" in paragraph 40 and paragraph 58 of HKFRS 3 respectively, therefore, equity classification was "permissible" at the same time as liability classification and a "fair value" measurement was "permissible" at the same time as "non-fair value" measurement. The Committee accepts the Complainant's submission that the Respondents' contention are "utter absurdity" because there is a clear reference in HKFRS and HKAS, the Respondents' above contention was a serious and fundamental misconception about the accounting standard and professional standards do not give room for misinterpretation by the Respondents.
55. The Respondents submitted that in Disciplinary Proceedings No. D-15-1095F, D-03-IC13Q and D-11-0615C, the committee in these cases did not consider it necessary or reasonable to impose a cancellation of practice certificate.

56. The Disciplinary Proceedings No. D-15-1095F concerns listed company audit involving significant impairment losses recognized for oil and gas project and coal mining project which were then subsequently reversed. The auditor failed to obtain sufficient appropriate audit evidence in respect of two separate assets in the audits for two consecutive years, in particular to evaluate the reasonableness of the forecast production plan and schedule where there were clear indications of production deferral. And the Disciplinary Proceedings No. D-03-IC13Q concerns the audit of three listed entities both in the period before their listing and in the period immediately afterwards. There were breaches of a number of auditing standards, of which the most significant were the serious deficiencies in audit evidence relating to sales and purchases of the companies concerned.
57. In the present case, the Respondents submitted that the Disciplinary Proceedings No. D-03-IC13Q is more serious because the breaches were in respect of three separate audit engagements for three listed companies spanning across four financial years, whereas the present case related to one audit engagement, one listed entity and two financial years only.
58. However, the Committee notes in the present case that the Respondents committed same kind of mistake in two consecutive years (Complaint 3 to 5), i.e. serious deficiencies in the audit work performed in relation to impairment assessment of goodwill and intangible assets occurred in financial statements related to Ease Ray Group and China Wimetron Communications Company for the year ended 30 June 2011 and Smart Long Limited for the year ended 30 June 2012. Clear failure to substantiate the dramatic increase in forecasted revenue was found and even some additional audit procedures performed was found in the Additional Documentation, the audit evidence was still inadequate and insufficient. Also, a prior year adjustment was made in the 2012 Financial Statements to rectify the incorrect classification in 2011 would suggest admission to an "error", not merely a change in circumstance or interpretation. From above, the Committee opines that the breach of the Respondents was not a technical accounting breach or "moderately serious" breach according to the Guideline.
59. The Committee accepts the submission of the Complainant that there are three serious features i.e. professional competence, quality of the audit work and documentation found in the present case and all these serious features were not found at the same time in either Disciplinary Proceedings No. D-15-1095F or D-03-IC13Q.
60. In the Disciplinary Proceedings No. D-11-0615C, the committee opined the circumstances of the non-availability of the documentation were rather suspicious though the breach was not intentional. However, in the present case, the Respondents claimed the reasons of their late production of the Additional Documentation were because of their "inexperience" dealing with regulatory enquiries and "lack of legal representation".
61. The above explanation of the Respondents is rejected because the Committee notes that the time for the Respondents first mentioned about the Additional Documents was in October 2016. Despite the Institute asking for the Additional Documentation in the letter of 8 February 2017, the Respondents did not produce it until August 2018 and at that time, the Respondents had already instructed their legal representative for more than four months. In addition, the First Respondent admitted in her two affirmations that "...the filing system for the relevant audits were not very well structured or organized and workings papers were filed in piecemeal fashion in various files", and the Third

Respondent "*oversight in respect of properly archiving and referencing the audit documentation and evidence to support the audit conclusion...*". From above, it is inexcusable for the Respondents' inability to respond to the investigation and failed to produce more than 300 pages Additional Documentation to both the FRC and the Institute on a timely basis, it seriously negated the Respondents' professional competence, their documentation and their practice's procedures.

62. Therefore, the Respondent's submission in relation to the Disciplinary Proceedings No. D-16-1222F, D-15-1095F, D-03-IC13Q and D-11-0615C did not advance their mitigation.
63. The Complainant submitted that the Committee may consider a cancellation of practicing certificates for such a period which the Committee may deem appropriate. If the Committee considers the seriousness does not warrant the cancellation of practicing certificates, at the very least the sanctions should include a reprimand plus a very substantial penalty to reflect the very serious nature of the breaches and under the circumstance where the public confidence may have been shaken.
64. According to paragraph 1.4 of the Guideline, the Committee should impose sanctions which are not only proportionate to the nature of the failure and the harm or potential harm caused by the breach, but also with the aim to:
  - (1) protect public interest;
  - (2) deter non-compliance with professional standards;
  - (3) maintain and promote public confidence in the profession; and
  - (4) declare and uphold proper standards of conduct and performance.
65. The Committee opines that the public are entitled to expect that practicing accountants and corporate entities discharge their duties and carry out their work to the highest standards of probity, independence and competence. If public confidence is shaken then the price to be paid by the entire accountancy profession is very high. Therefore, it is important that public confidence in the accountancy profession is maintained and that any sanctions imposed by the Committee should also act as deterrence to others that non-compliance by accountancy professionals to the high standards expected of them would be viewed seriously and would exact suitably severe sanctions.
66. In considering the proper order to be made in this case, the Committee has considered all the matters referred to above including all particulars in support of the Further Revised Complaint, the admission of the Respondents, the conduct of Respondents throughout the proceedings, and the parties' submissions in regard to the sanctions and all mitigating factors put forward by the Respondents (including the First and Second Respondents' personal, family and financial circumstances). The Committee also has taken into account of the gravity of the complaints in the present case and accepts the Complainant's submission that three serious features concerning the professional competence, quality of the work and documentation are found in the present case, in particular, the breach of professional competence of the Respondents is considered to be a very serious one which warranted the First and Second Respondents a removal from the registrar for a specified period.

67. In regard to costs concerned, there is no reason for Committee not to order the Respondents to pay the costs and expenses of and incidental to the proceedings. The Complainant submitted the Statement of Costs in the total amount of HK\$466,869.60 and the costs claimed be broken down as follows:
- (1) Costs incurred by FRC: HK\$97,353.60
  - (2) Complainant's costs: HK\$352,063
  - (3) Costs of the Clerk to the Committee: HK\$17,453
68. The Complainant submitted that the belated production of more than 300 pages of Additional Documentation had resulted in an unnecessary but inevitable hiking of the costs incurred, including the costs related to the correspondences "debating" the explanation of late production of the Additional Documentation and those related to the future conduct of proceeding; preparing response against the resistance of the Respondents in relation to the Complainant's application to amend the Complaint Letter; re-drafting, amendment of Complainant's case including the work concerned additional charge; the inspection of originals of the documents and relevant analysis; the preparation of two rounds of questions to the Respondents to explain certain aspects of documents.
69. The Respondents had been given opportunity to make written submission on the Complainant's Statement of Costs. The Respondents did not object to the total costs incurred by the Complainant/ FRC and the costs incurred by the clerk as at 6 June 2018. However, they did not agree with the further costs incurred by the Complainant since June 2018 on the ground that they were excessive and unreasonable and asked for the Committee to apply a 30% discount to the total costs.
70. The Committee does not agree with the Respondents' contention. The incurrence of costs since June 2018 is resulted from the uncooperative attitude of the Respondents and the late production of the Additional Documentation. The Committee accepts that the Complainant had involved reasonable and substantive work before the Respondents admitted the Further Revised Complaint.
71. The Committee ORDERS that:
- (1) All of the Respondents be reprimanded under Section 35(1)(b) of the PAO;
  - (2) The First Respondent pay a penalty of HK\$150,000 under Section 35(1)(c) of the PAO; the Second Respondent pay a penalty of HK\$110,000 under Section 35(1)(c) of the PAO; the Third Respondent pay a penalty of HK\$200,000 under Section 35(1)(c) of the PAO;
  - (3) The practicing certificates issued to the First Respondent and the Second Respondent in 2019 be cancelled with effect from 42 days from the date hereof under Section 35(1)(da) of PAO;
  - (4) A practicing certificate shall not be issued to the First Respondent for 36 months and the same shall not be issued to the Second Respondent for 24 months with effect from 42 days from the date hereof under section 35(1)(db) of the PAO;

- (5) All Respondents do pay jointly and severally the costs and expenses of and incidental to the proceedings of the Complainant and the costs of the Clerk to the Committee in the total sum of HK\$369,516 (being the total of the Complainant's costs HK\$352,063 and the Clerk to the Committee's costs HK\$17,453) under Section 35(1)(iii) of the PAO;
- (6) All Respondents do pay jointly and severally the costs and expenses in relation to the investigation incurred by the Financial Reporting Council in the total sum of HK\$97,353.60 under Section 35(1)(d)(ii) of PAO.

Dated the 4th day of November 2019

*Law*

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Ms. LAU, Wan Ching

Chairman

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Ms. CHAN, Yiting, Bonnie

Member

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Mr. CLEMENTSON, Rex Alexander

Member

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Mr. DOO, William Junior Guilherme

Member

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Mr. LEE, Kwo Hang, Felix

Member