

HONG KONG INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

(Incorporated by the Professional Accountants Ordinance, Cap. 50)



APPLICATION FOR REGISTRATION OF A CORPORATE PRACTICE (FOR INITIAL APPROVAL OF THE NAME OF THE PROPOSED CORPORATE PRACTICE AND MEMORANDUM AND ARTICLES OF ASSOCIATION)

IMPORTANT

Applicant should read carefully the Corporate Practices (Registration) Rules,
Corporate Practices (Professional Indemnity) Rules and Notes to
Forms RCP-1A and RCP-1B before completing this Form.

For Office Use Only

Name of Corporate Practice: _____

Name of Corporate Practice in Chinese, if any: _____

Reference no.: _____

Initial approval given on: _____ at _____ C.M.

IMPORTANT:

- Please read Notes carefully before completing this Form.
- Please complete all sections in **BLOCK LETTERS** and in **BLACK**.
- **Personal Data (Privacy) Ordinance:** All information provided in this form will be used for purposes relating to the administration of the Professional Accountants Ordinance and Professional Accountants By-laws including corporate practice registration. In addition, the Institute may use the collected data for statistical research and analysis, and for keeping CPA practices informed of its services. The provision of personal data by means of this form is voluntary. However, insufficient information may result in rejection of an application. Data collected is accessible to officers, committees or persons processing the registration and related matters.

Applicants may access their personal data kept by the Institute and if applicable correct or update it. Please contact the Admission Department at 37th Floor, Wu Chung House, 213 Queen's Road East, Wan Chai, Hong Kong (tel: 2287 7228) for the purpose.

Section 1 – NAME OF CORPORATE APPLICANT: (see NOTE 2)

_____ (in English)
 _____ (BLOCK letters)
 _____ (in Chinese, if any)

Section 2 – DETAILS OF ALL PROPOSED SHAREHOLDERS/DIRECTORS: (see NOTES 3-7)

<u>Name</u> (Full name in BLOCK letters)	<u>Membership no.</u> (if any)	<u>P.C. no.</u> (if any)	<u>Full/Part-time practice</u> (F/P)	<u>Personal signature</u> (see Note 9)
Managing Director				
_____	_____	_____	_____	_____
Other Director(s):				
1 _____	_____	_____	_____	_____
2 _____	_____	_____	_____	_____
3 _____	_____	_____	_____	_____
4 _____	_____	_____	_____	_____
5 _____	_____	_____	_____	_____

(Please use separate sheet, if necessary.)

Section 3 – DETAILS OF A PROPOSED PRACTISING MEMBER DIRECTOR HANDLING THIS APPLICATION FOR AND ON BEHALF OF THE CORPORATE APPLICANT:

Name: _____
(Full name in BLOCK letters)

Correspondence address: _____

Telephone no.: _____ **Fax no.:** _____ **Email address:** _____

Section 4 – OTHERS (see NOTE 12)

As it normally takes one to two months for a corporate applicant to complete the registration procedures after the Institute’s initial approval of the proposed name and M&A, the registration of RCP-1A applications considered by the Council in or after November each year will normally take effect in the next calendar year. If a corporate applicant wish to have the registration to take effect in the current calendar year, please indicate so by putting a “√” in the following box:-

It is our intention to have the registration of the corporate practice under application to take effect in the current calendar year.

Section 5 – DECLARATION: #

WE DECLARE THAT THE ENCLOSED DRAFT MEMORANDUM AND ARTICLES OF ASSOCIATION (“M&A”) OF THE CORPORATE APPLICANT: (see NOTE 10)

IS IDENTICAL TO THE MODEL M&A ISSUED BY THE HKICPA.

IS NOT IDENTICAL TO THE MODEL M&A ISSUED BY THE HKICPA AND THAT ALL MODIFICATIONS HAVE BEEN CLEARLY MARKED OR UNDERLINED.

WE WAIVE ALL CLAIMS AGAINST THE HONG KONG INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS FOR ANY LOSS OR DAMAGE WE MAY SUFFER ARISING FROM THIS APPLICATION.

**Signature of the Proposed Managing Director
for and on behalf of the Corporate Applicant**

Date

In the case of a sole practising member corporate applicant, the “B” shareholder/director has to make a declaration as follows: (see NOTES 3.2 and 8)

I _____ declare that I am not disqualified to act as a director
(Full name in BLOCK letters)

under Part IV A of the Companies Ordinance and that I shall hold not more than one share of the corporate applicant in trust for

_____ who is the sole practising member director of the
(Name of the sole practising member director)
corporate applicant.

**Signature of the “B” Shareholder/Director
of a Sole Practising Member Corporate Applicant**

Date

Please put a “√” in the appropriate box(es).

The completed application form should be returned with appropriate fees and relevant supporting documents by registered mail to:
The Registrar, Hong Kong Institute of Certified Public Accountants, 27th Floor, Wu Chung House, 213 Queen’s Road East, Wan Chai, Hong Kong.

P.S. Applicants may also submit their applications by hand to the Institute’s office at the above address during office hours.

NOTES

PLEASE READ THESE NOTES CAREFULLY BEFORE COMPLETING FORM RCP-1A

NOTE 1 – REGISTRATION OF A CORPORATE PRACTICE

The registration of a corporate practice is governed by sections 28D to 28H of the Professional Accountants Ordinance (“PAO”), the Corporate Practices (Registration) Rules, the Corporate Practices (Model Memorandum and Articles of Association), the Corporate Practices (Professional Indemnity) Rules, and Professional Accountants By-laws 28 and 29 as contained in Volume I of the HKICPA Members’ Handbook.

NOTE 2 – NAME OF A CORPORATE PRACTICE

2.1 The description “Certified Public Accountants” or “Certified Public Accountants (Practising)” may appear as part of the name of a corporate practice or after the name of a corporate practice.

However, section 5(1) of the Companies Ordinance stipulates that the memorandum of every company limited by shares or by guarantee must state the name of the company with “Limited” as the last word of the name. As such, the Companies Registry will only register a company name with “Limited” as its last word of the name in English. The same also applies to the Chinese name of a limited company.

Therefore, while corporate applicants may use the description “Certified Public Accountants” or “Certified Public Accountants (Practising)” after the word “Limited”, they should note that such description will not appear in their Certificate of Incorporation nor in the Institute’s register of corporate practices. This does not preclude the use of such description in the letterhead and business cards, etc., of a corporate practice.

2.2 The word “Co.” may or may not be included in the name of a corporate practice.

2.3 Use of personalised name

- (a) The name of a corporate practice must be sufficiently indicative of the name(s) of the full-time practising member director(s).
- (b) The name of a corporate practice not sufficiently indicative of the full-time practising member director(s) is not acceptable unless it is a registered practice name under an overseas accountancy body or a non-personalised name that is acceptable to the Institute’s Council.
- (c) The name of a sole practising member corporate practice must include the initials or other names of the sole practising member in addition to his/her surname, e.g. “A.B. Chan Certified Public Accountants (Practising) Co. Ltd.”. The registration of a corporate practice under the style of, say “Chan Certified Public Accountants (Practising) Co. Ltd.” is therefore not permissible.
- (d) Names of directors who are not practising certificate holders should not be included in the name of the corporate practice.

2.4 Use of non-personalised (trading) name

The proposed name should not be approved if, in the opinion of the Council:

- (a) it is misleading; or
- (b) it is unlawful; or
- (c) it is not of professional good taste and is inconsistent with the image of the profession; or
- (d) it is in conflict with the ethical rules of the Institute, in particular Section 450 – Practice promotion of the Code of Ethics for Professional Accountants.

2.5 A corporate practice is required to register its name in Chinese as well as in English, if it has or in fact uses a Chinese name.

2.6 An application for the use of a name of a corporate practice that is the same as or so nearly resembles a practice name already registered will not be approved.

2.7 Registration of the name of an overseas/international accountancy practice

Where an application for the use of the name of an overseas/international accountancy practice by a corporate practice in Hong Kong is submitted, such application must be supported by the following documents/information:-

- (a) Official letter of consent from the overseas/international accountancy practice giving its authorisation for the corporate applicant to register the name with the Institute.
- (b) The background of the overseas/international accountancy practice, e.g. the location of its head office and details regarding the structure of partnership and composition of the practice.
- (c) Arrangements, if any, between the overseas/international accountancy practice and the corporate applicant for the latter to act as their representatives in Hong Kong.
- (d) Proof that the overseas/international accountancy practice is a registered practice under the jurisdiction of an accountancy body currently accepted by the Council.

2.8 Initial approval of the name of the corporate practice may be withdrawn by the Institute if there is any subsequent change in the proposed shareholders/directors.

NOTE 3 – ELIGIBILITY FOR REGISTRATION AS A CORPORATE PRACTICE

3.1 Extract from Rule 4 of the Corporate Practices (Registration) Rules:

“A corporate applicant may be granted registration only if:

- (a) it is a company limited by shares and formed and registered under the Companies Ordinance;
- (b) all the shareholders are directors and all the directors are shareholders of the corporate applicant;
- (c) subject to Rule 5 below,
 - (i) every shareholder and every director of the corporate applicant is a certified public accountant;
 - (ii) all the shareholders are the ultimate beneficial owners of shares that they hold in the corporate applicant;
 - (iii) not less than two-thirds of the total number of directors are practising members;
 - (iv) not less than two-thirds of the voting shares in the corporate applicant are beneficially owned by practising members; and
 - (v) every non-practising member director satisfies the requirements from time to time laid down by the Council;
- (d) the corporate applicant complies with the Corporate Practices (Professional Indemnity) Rules issued by the Council; and
- (e) the Memorandum and Articles of Association (M&A) of the corporate applicant follow substantially and do not contradict or operate inconsistently with the provisions of the applicable Model M&A in the schedule, as shall be appropriate.”

3.2 Extract from Rule 5 of the Corporate Practices (Registration) Rules:

“To enable a sole practising member to register as a corporate practice under the PAO and to comply with the legal requirements of the Companies Ordinance to have two directors and two subscribers of shares, a sole practising member corporate applicant may appoint as the second director any other individual person, whether a certified public accountant or not, who is eligible under the Companies Ordinance and permitted by the Council under section 28D(5)(a) of the PAO provided that the sole practising member shall at all times be the managing director of the sole practising member corporate applicant, and that not more than one share may be registered in the name of the second director appointed under the terms of these Rules who shall hold such share in trust for the sole practising member.”

NOTE 4 – MODE OF PRACTICE

For registration of a corporate practice, at least one of the practising member directors or the sole practising member director must practise on a full time basis.

NOTE 5 – DIRECTORSHIP COMPOSITION

Rule 4 of the Corporate Practices (Registration) Rules specifies that other than the sole practising member corporate practices, not less than two-thirds of the total number of directors should be practising members and not less than two-thirds of the voting shares of the corporate practice are beneficially owned by practising members.

NOTE 6 – MAXIMUM NUMBER OF FIRM/CORPORATE PRACTICE NAMES THAT CAN BE REGISTERED BY A DIRECTOR

The Council rules that the number of firm/corporate practice names under which a director of the corporate applicant may register as a sole proprietor, a partner, a director, an authorised signatory or an authorised person (as the case may be) should in no case exceed three.

NOTE 7 – REGISTRATION OF A NON-PRACTISING MEMBER DIRECTOR

For registration of a non-practising member director other than as a “B” shareholder/director of a sole practising member corporate applicant, a letter applying for exemption from Professional Accountants By-law 28(c) to practise through a corporate practice with a person who is not entitled to practise as a certified public accountant (practising) shall be submitted together with this Form.

NOTE 8 – REGISTRATION OF A NON-MEMBER DIRECTOR

In the case of a sole practising member corporate applicant, a completed Form CR duly signed by the sole practising member director in support of the proposed non-member director is required when submitting this application.

NOTE 9 – BANKRUPTCY

9.1 Section 30(7) of the PAO stipulates that: -

“A practising certificate shall not be issued to, and the Council may cancel the practising certificate of, a certified public accountant who is or has become bankrupt or has entered into a voluntary arrangement with his creditors within the meaning of the Bankruptcy Ordinance (Cap. 6).”

9.2 Section 156 of the Companies Ordinance provides that if any person being an undischarged bankrupt acts as director of, or directly or indirectly takes part in or is concerned in the management of any company, he shall be guilty of an offence and is liable to imprisonment and a fine. However, s/he may act as a director with the leave of the court by which s/he was adjudicated bankrupt.

- 9.3 The personal signature of the proposed shareholders/directors serves as a declaration by the signer that s/he is not or has not become bankrupt or has not entered into a voluntary arrangement with his/her creditors within the meaning of the Bankruptcy Ordinance.
- 9.4 For a proposed shareholder/director who was adjudicated bankrupt but has been granted leave by the court to act as a director, s/he should provide a certified copy of the document issued by the court on such permission together with this application for the Institute’s consideration.

NOTE 10 – MEMORANDUM AND ARTICLES OF ASSOCIATION

- 10.1 A copy of the draft Memorandum and Articles of Association of the corporate applicant which should comply substantially with the term of relevant provisions of the applicable Model M&A issued by the Institute as part of its rules on incorporation should be submitted together with this Form.
- 10.2 Please note that the Model M&A has been carefully drawn up to satisfy the requirements of HKICPA and it is recommended that it be followed exactly as any variations requiring review and consideration by the Registration and Practising Committee may lead to longer processing time for the application. **Any modifications to the Model M&A are required to be clearly marked in the draft M&A of the corporate applicant submitted to the Institute for consideration of the application.**

Any substantial modifications may result in the Registration and Practising Committee seeking the advice of the Institute’s solicitors. In the event that this is deemed necessary, any related cost would be payable by the corporate applicant. However, the corporate applicant will be consulted before any decision is taken to refer such modifications to the Institute’s solicitors.

The onus is on the corporate applicant or corporate practice rather than the Institute to ensure that the M&A complies with the requirements of the PAO.

- 10.3 Memorandum of Association of a Sole Practising Member Corporate Practice:
 - (a) In clause 5, the composition of the “A” share(s) and the “B” share should be clearly indicated:

“The share capital of the company is [currency and amount] divided into [] “A” share(s) of [currency and amount] each and 1 “B” share of [currency and amount] each.”

- (b) The shareholder of the “A” share(s) and “B” share should be clearly distinguished:

Name, Address and Descriptions of Subscribers	No. of Share(s) taken by each Subscriber
1. [] of [], []	[] “A” share
2. [] of [], []	[] “B” share
Total shares taken:	<u>[]</u>

- 10.4 Articles of Association:

Corporate applicants may consider adding an article for appointment of “*First Secretary*” to facilitate registration with the Companies Registry.

NOTE 11 – PROCEDURES FOR REGISTRATION OF A CORPORATE PRACTICE

- 11.1 Corporate applicants should follow the registration procedures below:
 - (a) submit Form RCP-1A with the draft Memorandum and Articles of Association (“M&A”) for the initial approval of the name and M&A by the Registration and Practising Committee and Council of the Institute. Applicants will normally be notified of the Institute’s decision ten weeks after each submission deadline with a Reference Number. Please refer to the submission deadlines announced by the Institute from time to time. The name approved will be held for the corporate applicant by the Institute for up to three months from the date of approval;
 - (b) register the proposed corporate practice with the Companies Registry;
 - (c) obtain Professional Indemnity Insurance, it is advisable for a corporate applicant to take steps to secure insurance terms and coverage for Professional Indemnity Insurance applicable to the corporate applicant at an early stage when registration of a corporate practice is contemplated; and
 - (d) submit Form RCP-1B and all supporting documents (quoting the Reference Number given by the Institute) within three months from the date of approval of the name and M&A for formal approval by the Council.
- 11.2 Corporate applicants are reminded that they should not carry out any business in the name of the proposed corporate practice until the registration of the proposed corporate practice has been approved by the Council.

NOTE 12 – FEE

- 12.1 An application must be accompanied by the appropriate registration fee (crossed cheque in Hong Kong dollars payable to the “Hong Kong Institute of Certified Public Accountants”). Please refer to the Fee Schedule announced by the Institute from time to time.

- 12.2 As it normally takes one to two months for a corporate applicant to complete the registration procedures after the Institute's initial approval of the proposed name and M&A, the registration of the proposed corporate practice considered by the Council in or after November each year will normally take effect in the next calendar year. If a corporate applicant wish to have the registration to take effect in the current calendar year, the annual registration fees for **both** the current and the next calendar year have to be paid.

- 12.3 A flat annual registration fee equivalent to the registration fee for one practising member director is charged for each additional corporate practice registered with the Institute under the same directorship.

NOTE 13 – ENQUIRIES

For enquiries in relation to the application, please contact the Admission Department of the Institute via email: hkicpa@hkicpa.org.hk; telephone: 2287 7228; or fax: 2865 6603/2537 9392.

**HONG KONG INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS**

Model Memorandum and Articles of Association

The model Memorandum and Articles of Association ("M&A") for corporate applicants is now available from the Institute in Word document format on a 3.5" floppy disk, priced at HK\$50.

Members contemplating the registration of a corporate practice should find the disk helpful in preparing the M&A. To purchase the disk, please contact Miss Eva Lee of the Institute's Admission Department on 2287 7014.