

**Legislative Council Election Financial Assistance Scheme  
Notes for Candidate and Independent Auditor of Candidate of  
Legislative Council Elections**

**Purpose**

1. The purpose of these Notes, which have been prepared in consultation with the Hong Kong Institute of Certified Public Accountants (“HKICPA”), is to provide guidance to:
  - (a) the Legislative Council (“LC”) election candidate or list of LC election candidates (“candidate”) seeking financial assistance from the Government under the Financial Assistance Scheme (the “Scheme”); and
  - (b) the auditor of the candidate,in order that:
  - (i) the candidate will establish proper internal controls in relation to the accounting requirements to ensure that his/her election return (with the account of the declared election expenses) complies with section 37(1)(a) and (2)(b)(i) and (v) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (the “ECICO”); and
  - (ii) the auditor of the candidate will be able to plan and perform appropriate procedures for a reasonable assurance engagement as required by the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections)(Application and Payment Procedure) Regulation (Cap. 541N) (the “Regulation”).

**Background**

2. Part VIA of the Legislative Council Ordinance (Cap. 542) (the “LCO”) provides for a financial assistance scheme for candidate in respect of election expenses. The aim of the Scheme is to encourage more public-spirited candidates to participate in LC elections. This will be conducive to the development of political parties and political groups in Hong Kong.
3. Under the Scheme, a candidate who gets elected or who has received 5% of valid votes or more will be given financial assistance to offset part of his/her election expenses as follows:
  - (a) in respect of a candidate in a contested geographical or functional constituency, the amount payable is the lower of:
    - (i) the amount obtained by multiplying the total number of valid votes cast for the candidate by the specified rate (now \$11); or
    - (ii) 50% of the declared election expenses of the candidate;

- (b) in respect of a candidate in an uncontested geographical or functional constituency, the amount payable is the lower of:
  - (i) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate (now \$11); or
  - (ii) 50% of the declared election expenses of the candidate.

The “declared election expenses” means the amount set out as election expenses incurred by the candidate in the election return lodged under section 37(1) of the ECICO. The amount of election donations received by a candidate will not be taken into account in determining the amount of financial assistance payable to him/her, except donations-in-kind when they are included in the election return as election expenses (please see paragraph 12 below).

- 4. A declaration by the Returning Officer under section 46A(3)(a) or (b) of the LCO that an election has failed does not affect any entitlement to financial assistance. If the proceedings for an election are terminated under section 46A(1) of the LCO, financial assistance is not payable in respect of that election.

#### **Notes for Candidate**

- 5. The candidate should note that the Regulation stipulates that a claim for financial assistance should be made on a form specified by the Electoral Affairs Commission (“EAC”) (which will be given to a candidate upon his/her submission of the nomination). The completed claim form must be presented in person by the candidate or his/her agent to the Chief Electoral Officer (“CEO”) during ordinary business hours within the period or extended period specified in paragraph 8 below for lodging an election return. The claim form must be accompanied by an election return and an auditor’s report. If the claim is made in respect of a list of LC candidates consisting of more than one candidate, one of the candidates on the list must be nominated in the claim form to receive the payment of financial assistance on behalf of all the candidates on the list.
- 6. The Regulation requires the auditor’s report to:
  - (a) state that the auditor has audited the account of the declared election expenses by conducting a reasonable assurance engagement in accordance with the Hong Kong Standards on Assurance Engagements<sup>1</sup>; and
  - (b) state the auditor’s opinion as to whether the election return complies with section 37(1)(a) and (2)(b)(i) and (v) of the ECICO in all material respects.
- 7. Given the above it is important that the candidate establishes proper internal controls in relation to the accounting requirements to satisfy section 37(1)(a) and (2)(b)(i) and (v) of the ECICO.
- 8. Section 37(1) of the ECICO states that each candidate at an election must lodge with the appropriate authority (i.e., the CEO) an election return setting out:

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<sup>1</sup> "Hong Kong Standards on Assurance Engagements" means the standards of auditing and assurance practices of that name issued by the Council of the HKICPA, as amended from time to time.

- (a) the candidate's election expenses at the election; and
- (b) all election donations received by or on behalf of the candidate in connection with the election.

Section 37(2)(b) of the ECICO states that the candidate must ensure that the return is accompanied:

- (i) in the case of each election expense of \$100 or more, by an invoice and a receipt giving particulars of the expenditure; and
- (ii) in the case of each election donation of more than \$1,000 or, in the case of an election donation consisting of goods or a service, of more than \$1,000 in value, by a copy of the receipt issued to the donor giving particulars of the donor and the donation; and
- (iii) where an election donation or part of an election donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was disposed of in accordance with section 19 of the ECICO, by a copy of the receipt given by the recipient of the donation or part; and
- (iv) where an election donation or part of an election donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was not disposed of in accordance with section 19(3)<sup>2</sup> of the ECICO, by an explanation setting out the reason why it was not disposed of in accordance with that section; and
- (v) by a declaration in a form provided or specified by the appropriate authority verifying the contents of the return.

The return and declaration of election expenses and donations in a specified form (which will be given to the candidate upon his/her submission of nomination) must be submitted to the CEO not later than 60 days after the publication in the Gazette of the result of the election, or not later than 60 days after the declaration of the termination of the election proceedings, or not later than 60 days after the declaration of the failure of the election, or within such extended period as may be allowed by the Court under section 40 of the ECICO.

- 9. The candidate needs to make arrangements to institute proper internal controls to ensure that all election donations to which he/she receives and all election expenses for which he/she incurs are properly accounted for and recorded in his/her books and records.
- 10. The proper internal controls in relation to the accounting requirements should include the following:

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<sup>2</sup> Section 19(3) of the ECICO requires that any unspent or unused donations must be given to charitable institutions or trusts of a public character chosen by the candidates. Section 19(4) of the ECICO requires that any amount of donations that exceeds the maximum limit of election expenses must also be given to such charitable institutions or trusts.

- (a) a candidate should appoint a treasurer before accepting an election donation or incurring an election expense. This is to ensure that all donations received and expenses incurred for the campaign of a candidate are properly recorded in the books and records;
  - (b) all donations relating to the election campaign should be recorded in the books and records as soon as practicable and cash and cheque donations are deposited in a separate bank account of a candidate - for the sole purpose of the candidate's election campaign, as soon as practicable and preferably within 3 working days of receipt;
  - (c) the candidate and the treasurer should ensure that a cash book is maintained to record all election donations received and election expenses paid and regular bank reconciliations should be carried out;
  - (d) all donation receipts and election expense payments should be supported by documentation and properly filed; and
  - (e) the candidate should appoint an auditor immediately after submitting his/her nomination if he/she intends to seek financial assistance under the Scheme, in order that the auditor will have sufficient time to plan and perform the appropriate procedures for a reasonable assurance engagement as required by the Regulation.
11. The candidate should also note that for all outstanding claims included as election expenses in the election return, a payment schedule for settlement of the outstanding claims should be submitted with the claim for financial assistance. The candidate is then required to submit duly certified invoice(s) and receipt(s) in the case of each election expense of \$100 or more to the CEO within 30 days of settlement of the outstanding claims.
12. Any financial benefit given by an organization or individual to a candidate for the purpose of meeting, or contributing towards meeting his/her election expenses should be declared as election donation and accounted for in the election return. Any goods and services obtained free of charge or at a discount are donation-in-kind and their estimated fair value should be included in the election return both as a donation and election expense where appropriate. Fund raising campaigns organized by a political body or an organization without specific reference to the candidate will not be counted as the candidate's election activity. However, any contributions from such political body or organization to the candidate will need to be recorded as election donations received by the candidate. Costs incurred by the political body of the candidate in promoting his/her election are expenses which are counted towards election expenses. Costs of meeting where the platform of the political body is publicized without specific reference to the candidate will not be counted as election expenses.
13. The candidate should ensure that the auditor is to have access, at all reasonable times, to all records, documents, books, accounts and vouchers and to such information and explanations that, in the auditor's opinion, are necessary to conduct the assurance engagement in accordance with the Hong Kong Standards on Assurance Engagements.

14. A candidate who knowingly makes a materially false or misleading statement in his/her return and declaration of election expenses and donations or any advance return of donations commits a corrupt conduct under section 20 of the ECICO and is punishable by a fine of up to \$500,000 and imprisonment of up to 7 years.
15. In relation to election expenses and donations, a candidate and his/her treasurer should make reference to the prevailing EAC Guidelines on Election-related Activities in respect of the Legislative Council Elections, in particular the chapter entitled "Election Expenses and Donations" and the Appendix entitled "Items of Expenses which may be Counted towards Election Expenses".
16. A claim may be withdrawn, before a payment of financial assistance is made or the claim is otherwise disposed of, by means of a notice of withdrawal presented to the CEO. The notice of withdrawal must be presented in a form specified by the EAC (which will be given to the candidate upon his/her submission of nomination).
17. Where a payment of financial assistance is made and the recipient is not entitled to receive the whole or part of the amount paid, the recipient must repay the whole or part, as the case may be, of the amount paid to the Government within 3 months after the date of a written notice that was given by the CEO to the recipient requiring repayment.

#### **Notes for Auditor**

##### *Background information*

18. A claim for financial assistance under the Scheme must be made by a candidate on a form specified by the EAC. The claim form must be accompanied by an election return with the account of the declared election expenses audited by an auditor (section 60I of the LCO).
19. The auditor's responsibilities under the Regulation are set out in paragraph 6 above.

##### *Engagement letter*

20. It is important that there is a clear understanding and agreement with the candidate as to the nature of the services that the auditor is to provide. To avoid any misunderstanding, the agreement should be put in writing in the form of an engagement letter. It is suggested that the terms of the engagement be agreed prior to accepting the appointment as auditor for a candidate.

##### *Planning and conducting the engagement*

21. The auditor who has decided to take on the engagement should familiarize himself with the relevant ordinances and regulations such as:
  - (a) Part VIA of the LCO (Cap. 542);  
Part 6 of the ECICO (Cap. 554);  
the Regulation (Cap. 541N); and
  - (b) EAC Guidelines on Election-related Activities in respect of the Legislative Council Elections, in particular the chapter entitled "Election Expenses and Donations" and

the Appendix entitled "Items of Expenses which may be Counted towards Election Expenses".

22. The auditor should plan and conduct a reasonable assurance engagement in such a way that he can conclude on a reasonable basis whether the election return complies with section 37(1)(a) and 2(b)(i) and (v) of the ECICO. In case of doubt, the auditor should make reference to the relevant ordinances/regulations and the EAC Guidelines on Election-related Activities in respect of the Legislative Council Elections and seek clarification from the Registration and Electoral Office where appropriate.
23. The auditor should obtain an understanding of the internal controls to plan the engagement. To obtain the information needed on internal controls, the auditor should consider visiting campaign sites to obtain an overall view of the controls and to obtain information on items such as major suppliers, volunteer labour and normal campaign expenditures.
24. In conducting a reasonable assurance engagement, the auditor should perform such procedures<sup>3</sup> as he considers necessary in the circumstances and obtain all the information and explanations which he considers necessary in order to make his conclusion.
25. The auditor should be aware of the engagement risks associated with the accounting for election expenses by the candidate. Accordingly, he should pay particular attention to the special features of election expenses which may be incurred by the candidate, including:
  - (a) Election expenses mean expenses incurred or to be incurred before, during or after an election, by a candidate or his/her election expense agent on his/her behalf for the purpose of promoting his/her election, or prejudicing the election of another candidate or other candidates and include the value of election donations consisting of goods and services used for that purpose.
  - (b) Each election expense of \$100 or more has to be supported by an invoice and a receipt giving particulars of the expenditure.
  - (c) Common election expenses may include:
    - (i) fees and allowances paid to agents and assistants;
    - (ii) meal and drinks;
    - (iii) election advertisements;
    - (iv) renting of space for election campaign;
    - (v) stationery, photocopying and telephone;
    - (vi) mailing and transport;

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<sup>3</sup> The auditor's procedures would normally include:

- (a) performing tests of transactions;
- (b) obtaining an understanding of the accounting systems and control in order to assess their adequacy as a basis for the preparation of the account of the declared election expenses and to establish whether proper books and records have been kept and maintained by the candidate;
- (c) assessing significant estimates and judgements made by the candidate in the preparation of the account of the declared election expenses; and
- (d) evaluating the overall adequacy of the presentation of information in the account of the declared election expenses.

- (vii) costs incurred by the political body or organization of the candidate in promoting his/her election (costs of meeting where the platform of the political body or organization is publicized without specific reference to the candidate will not be counted as election expenses);
  - (viii) interest incurred from a loan to finance the campaigning activities of a candidate.
26. The auditor should note that as with most organizations that receive funds by donation, due to the inherent limitation on being able to be satisfied as to the completeness of donations, it is not possible to determine the extent, if any, of unrecorded donations. Furthermore, since donated property and services are both donations and expenses, it is not possible to determine that all expenses have been recorded. The auditor should nevertheless be alert for specific circumstances arousing suspicion that the account of the declared election expenses is not complete. Such circumstances would include situations where campaign expenditures were significantly in excess of donations or the reconciliation of the bank account was not properly done. In such situation, it is possible that some cash receipts (through donations, loans) have not been recorded. The auditor should question how the expenditures were made. The auditor should also consider practical issues associated with estimations of fair values of donations-in-kind.
27. The auditor should also make enquiries with the candidate and the treasurer of the candidate to ensure that all the candidate's election expenses have been recorded with reference to the EAC Guideline on Election-related Activities in respect of the Legislative Council Elections, in particular the chapter entitled "Election Expenses and Donations" and the Appendix entitled "Items of Expenses which may be Counted towards Election Expenses".

*Compliance with section 37(1)(a) of the ECICO*

28. In relation to compliance with section 37(1)(a) of the ECICO, obtaining assurance as to the completeness and accuracy of expenses can be difficult for the auditor, as it would not be practicable for him to determine that the books and records of the candidate include all transactions relating to the election. Taking into account the above, the auditor should perform procedures to support his conclusion as to whether the election return complies with section 37(1)(a) of the ECICO, in all material respects, to the extent that the account of the declared election expenses of the election return has set out the election expenses of the candidate that have been recorded in the books and records of the candidate made available to the auditor.

*Compliance with section 37(2)(b)(i) and (v) of the ECICO*

29. In relation to the compliance with section 37(2)(b)(i) and (v) of the ECICO, the auditor should ensure that the candidate maintained sufficient records to comply with the documentation requirements in accordance with the requirements of that section.

*Letter of representation*

30. The auditor should obtain a representation letter from the candidate as to representations that the auditor considers of significance in forming his conclusion. For example, the auditor should obtain written assurance from the candidate that he/she is not aware of any

violations of section 37(1)(a) and (2)(b)(i) and (v) of the ECICO.

*Reporting*

31. If the auditor is of the opinion that a proper set of books and records has not been kept by the candidate for the declared election expenses or the election return (with the account of the declared election expenses) has not been properly prepared, or if the auditor fails to obtain all the information and explanations which are necessary for the purpose of his reasonable assurance engagement, he should make appropriate qualifications in his auditor's report.
32. If the auditor is of the opinion that there exists any other material non-compliance with the requirements of section 37(1)(a) and (2)(b)(i) and (v) of the ECICO, he should make full disclosure and where possible, quantify the effects of such non-compliance in the auditor's report.

*Specimen auditor's report*

33. A specimen auditor's report is attached at the **Annex**.

Registration and Electoral Office  
July 2008



**SPECIMEN INDEPENDENT AUDITOR'S REPORT ON THE ELECTION RETURN  
(WITH THE ACCOUNT OF THE DECLARED ELECTION EXPENSES) UNDER THE  
FINANCIAL ASSISTANCE SCHEME FOR LEGISLATIVE COUNCIL ELECTIONS**

**INDEPENDENT AUDITOR'S REPORT TO (*Name of Candidate(s), Name of Constituency*)  
(The "Candidate(s)")**

We have performed a reasonable assurance engagement on the account of the declared election expenses as set out on pages \_\_\_ to \_\_\_ of the attached election return of the Candidate(s) in respect of the [year] Legislative Council \* Election / [name of constituency] By-election (the "Election") pursuant to the requirements set out in section 3(5) of the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections)(Application and Payment Procedure) Regulation (Cap. 541N).

**Respective responsibilities of the Candidate(s) and Auditor**

The Candidate(s) is/are required to prepare and is/are responsible for an election return (including the account of the declared election expenses) in compliance with section 37(1)(a) and (2)(b)(i) and (v) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (the "ECICO").

It is our responsibility to form an independent conclusion, based on the results of the procedures performed by us, as to whether the election return complies with section 37(1)(a) and (2)(b)(i) and (v) of the ECICO, in all material respects, and to report our conclusion to you<sup>1</sup>.

**Basis of conclusion**

We conducted our work in accordance with Hong Kong Standard on Assurance Engagements 3000 "Assurance Engagements Other Than Audits or Reviews of Historical Financial Information" issued by the Hong Kong Institute of Certified Public Accountants and with reference to the Legislative Council Election Financial Assistance Scheme - Notes for Candidate and Independent Auditor of Candidate of Legislative Council Elections issued in July 2008 by the Registration and Electoral Office ("REO") of the HKSAR Government (the "REO Notes").

Such a reasonable assurance engagement includes performing the procedures set out in the REO Notes and examination, on a test basis, of evidence supporting the amounts and disclosure of the items stated in the account of the declared election expenses of the election return. It also includes an assessment of the significant estimates and judgements made by the Candidate(s) in the preparation of the account of the declared election expenses of the election return.

As it was not practicable for us, given the nature of the transactions relating to the Election, to determine that the books and records of the Candidate(s) include all such transactions relating to the election, we planned and performed our work so as to obtain all the information and

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<sup>1</sup> Auditors may consider it appropriate to clarify to whom they are responsible here or elsewhere in the report in accordance with their risk management policies and with reference to Professional Risk Management Bulletin No. 2 "Auditors' Duty of Care To Third Parties and The Audit Report".

explanations which we considered necessary in order to provide us with sufficient evidence to obtain reasonable assurance as to whether the election return complies with section 37(1)(a) of the ECICO, in all material respects, to the extent that the account of the declared election expenses of the election return has set out, the election expenses of the Candidate(s) that have been recorded in the books and records of the Candidate(s) made available to us, and the election return complies with section 37(2)(b)(i) and (v) of the ECICO, in all material respects, in respect of the election expenses so declared therein.

We believe that our work provides a reasonable basis for our conclusion.

### **Conclusion**

Based on the foregoing, in our opinion:

- the election return complies with section 37(1)(a) of the ECICO, in all material respects, to the extent that the account of the declared election expenses of the election return has set out the election expenses of the Candidate(s) that have been recorded in the books and records of the Candidate(s) made available to us; and
- the election return complies with section 37(2)(b)(i) and (v) of the ECICO, in all material respects, in respect of the election expenses so declared therein.

### **Use of this report**

This report is intended for filing by the Candidate(s) with the REO of the HKSAR Government, and is not intended to be, and should not be, used by anyone for any other purpose.

[Name of firm]

[\* Certified Public Accountants (Practising) / Certified Public Accountants]

[Address]

Hong Kong

[Date]

\* Delete as appropriate.

## 立法會選舉資助計劃 立法會選舉候選人和候選人的獨立核數師須知

### 目的

1. 當局於徵詢香港會計師公會的意見後，擬備這份須知，向下列人士提供指引：

(a) 根據立法會選舉資助計劃向政府尋求資助的立法會選舉候選人或候選人名單(以下簡稱“候選人”)；以及

(b) 候選人的核數師，

以便

(i) 候選人就會計要求建立妥善的內部監控，以確保其選舉申報書(連同申報選舉開支的帳目)符合《選舉(舞弊及非法行為)條例》(第 554 章)第 37(1)(a)及(2)(b)(i)及(v)條的規定；以及

(ii) 候選人的核數師能根據《選舉管理委員會(立法會選舉及區議會選舉資助)(申請及支付程序)規例》(第 541N 章)(以下簡稱《立法會選舉及區議會選舉資助規例》)的規定計劃和執行適當程序，以便進行合理核證工作。

### 背景

2. 《立法會條例》(第 542 章)第 VIA 部規定為候選人設立資助計劃，以支付選舉開支。該計劃旨在鼓勵更多有志服務社會的候選人參與立法會選舉，有助香港政黨及政治團體的發展。

3. 根據該計劃，當選的候選人或取得 5%或以上有效票的候選人將按以下情況獲得資助，以抵銷其部分選舉開支：

(a) 若候選人是在有對手競逐的地方選區或功能界別參選，則獲資助的款額為下列二者中的較低者：

(i) 將投予有關候選人的有效票總數乘以指明資助額(現時為十一元)而得出的款額；或

- (ii) 候選人的申報選舉開支的 50%。
- (b) 若候選人是在無對手競逐的地方選區或功能界別參選，則獲資助的款額為下列二者中的較低者：
  - (i) 把有關選區或界別的登記選民數目的 50% 乘以指明資助額(現時為十一元)而得出的款額；或
  - (ii) 候選人的申報選舉開支的 50%。

“申報選舉開支”是指候選人根據《選舉(舞弊及非法行為)條例》第 37(1)條而提交的選舉申報書中列作就該候選人而招致的選舉開支的款額。在計算候選人可獲得的資助額時，不會考慮該名候選人所收到的選舉捐贈款額，惟選舉申報書中列作選舉開支的實物抵付形式的捐贈，則屬例外(請參閱下文第 12 段)。

- 4. 選舉主任根據《立法會條例》第 46A(3)(a)或(b)條的規定宣布選舉未能完成，並不影響候選人任何獲得資助的權利。如果選舉程序根據《立法會條例》第 46A(1)條終止，則不須就該項選舉支付資助。

#### 候選人須知

- 5. 候選人應注意，《立法會選舉及區議會選舉資助規例》規定，資助申索須以選舉管理委員會(以下簡稱“選管會”)指明的表格作出(候選人在遞交提名時會獲發給該表格)，並須在下文第 8 段指明的提交選舉申報書期限或延長期限的通常辦公時間內，由候選人或其代理人親自送交總選舉事務主任。申索表格必須連同選舉申報書及核數師報告，一併遞交。如申索是就有多於一名候選人的立法會選舉候選人名單作出的，則在申索表格中必須指定該名單上的其中一名候選人代表該名單上的所有候選人收取支付的資助。
- 6. 《立法會選舉及區議會選舉資助規例》要求核數師報告必須：
  - (a) 述明核數師已根據《香港核證準則》<sup>1</sup> 進行合理核證工作，審核有關申報選舉開支的帳目；以及

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<sup>1</sup> 《香港核證準則》指由香港會計師公會理事會發出並經不時修訂的以該名稱為名的核數及核證執業準則。

(b) 述明按核數師的意見，有關選舉申報書是否在所有要項上均符合《選舉(舞弊及非法行爲)條例》第 37(1)(a)及(2)(b)(i)及(v)條的規定。

7. 鑑於以上所述，候選人必須就會計要求建立妥善的內部監控，以符合《選舉(舞弊及非法行爲)條例》第 37(1)(a)及(2)(b)(i)及(v)條的規定。

8. 《選舉(舞弊及非法行爲)條例》第 37(1)條訂明，在選舉中的每名候選人必須向有關主管當局(即總選舉事務主任)提交選舉申報書，列出：

(a) 該候選人在該項選舉中的選舉開支；以及

(b) 曾由該候選人或由他人代該候選人在與該項選舉有關連的情況下收取的所有選舉捐贈。

《選舉(舞弊及非法行爲)條例》第 37(2)(b)條訂明，候選人必須確保申報書附有：

(i) (就每項\$100 或以上的選舉開支而言)載有該項支出的詳情的發票及收據；以及

(ii) (就每項\$1,000 以上或每項包含貨品或服務而價值\$1,000 以上的選舉捐贈而言)發給捐贈者的載有關於該捐贈者及該項捐贈的詳情的收據的副本；以及

(iii) (如由候選人或由他人代候選人在與選舉有關連的情況下收取的某項選舉捐贈或某項選舉捐贈的一部分沒有用於該用途而已按照《選舉(舞弊及非法行爲)條例》第 19 條處置)收取該等如此處置的捐贈或部分捐贈的人所發出的收據的副本；以及

(iv) (如由候選人或由他人代候選人在與選舉有關連的情況下收取的某項選舉捐贈或某項選舉捐贈的一部分沒有用於該用途，亦沒有按照《選舉(舞弊及非法行爲)條例》第 19(3)條<sup>2</sup>處置)書面解釋，列出沒有按照該條處置該項捐贈或該部分捐贈的理由；以及

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<sup>2</sup> 《選舉(舞弊及非法行爲)條例》第 19(3)條規定，任何未開銷或未使用的捐贈，必須給予該候選人所選擇的慈善機構或屬公共性質的信託。該條例第 19(4)條規定，

- (v) 採用有關主管當局提供或指明的表格或格式所作的聲明書，證明申報書內容屬實。

以指明表格作出的選舉開支及接受選舉捐贈之申報書及聲明書(候選人在遞交提名時會獲發給該表格)必須於憲報公布選舉結果的日期後的 60 日屆滿之前、或宣布選舉程序終止的日期後的 60 日屆滿之前、或宣布選舉未能完成的日期後的 60 日屆滿之前，或在原訟法庭根據《選舉(舞弊及非法行為)條例》第 40 條容許的延長限期內，向總選舉事務主任提交。

9. 候選人須作出安排，以建立妥善的內部監控，確保候選人收取的所有選舉捐贈及其招致的所有選舉開支，均妥善計入及載錄於候選人的帳簿及紀錄上。
10. 就會計要求的妥善的內部監控應包括以下各方面：
- (a) 候選人應在接受選舉捐贈或招致選舉開支之前，委任一名司庫。此舉是爲了確保候選人就選舉活動收取的所有捐贈及招致的所有開支均妥善載錄於帳簿及紀錄上；
  - (b) 所有有關選舉活動的捐贈應在切實可行的範圍內盡快載錄於帳簿及紀錄內。現金及支票捐贈應在切實可行的範圍內盡快(最好在收到後三個工作天內)存放於候選人一個專供他的選舉活動之用的獨立銀行帳戶內；
  - (c) 候選人及司庫應確保保存一本現金簿，以記錄所有收取的選舉捐贈及支付的選舉開支，並應定期進行銀行對帳；
  - (d) 所有收取的捐贈及支付的選舉開支，均應附上單據證明，並妥善存檔；以及
  - (e) 候選人倘打算根據上述計劃尋求資助，應在遞交其提名表格之後立刻委任一名核數師，以便該名核數師有足夠時間按照《立法會選舉及區議會選舉資助規例》的要求計劃及執行適當的步驟以進行合理核證工作。
11. 候選人亦應注意，在提交資助申索時，須就選舉申報書內選舉開支所包括的所有未支付索款，附上預定支付索款的時間表。於清付索款後的 30 天內，候選人須把每項 100 元或以上的選舉

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任何超逾選舉開支最高限額的捐贈，亦須給予該等慈善機構或信託。

開支已妥為核證的發票及付款收據，交予總選舉事務主任。

12. 任何組織或個人給予候選人用以支付或有助於支付其選舉開支的任何財政利益，均應申報為選舉捐贈，並記帳於選舉申報書內。任何免費或以折扣價獲取的貨品及服務，均屬實物抵付形式的捐贈，其估計合理價值應納入選舉申報書，同時列為捐贈及選舉開支(如適用)。由政治團體或任何組織舉辦的籌款活動，如沒有特別提及候選人，則不被計算為候選人的選舉活動。不過，該等政治團體或組織給予候選人的任何捐獻，均須記錄為候選人收取的選舉捐贈。候選人所屬的政治團體為其進行選舉宣傳活動所招致的費用，應計算為選舉開支。宣傳政治團體政綱的聚會，如沒有特別提及候選人，其費用不會計算為選舉開支。
13. 候選人應確保核數師在任何合理時間均可取用所有紀錄、文件、帳簿、帳目和憑單，並取得核數師認為根據《香港核證準則》進行核證工作所需的資料和解釋。
14. 候選人如在選舉開支及接受選舉捐贈之申報書及聲明書或任何接受捐贈預先申報書內，作出明知屬虛假達關鍵程度或具誤導性達關鍵程度的陳述，即屬作出《選舉(舞弊及非法行為)條例》20條界定的舞弊行為，最高可被判罰款500,000元及監禁七年。
15. 就選舉開支及捐贈而言，候選人及其司庫應參考選管會現行的《立法會選舉活動指引》，特別是題為“選舉開支及捐贈”的章節及題為“可被算為選舉開支的開支項目”的附錄。
16. 任何申索可在資助支付前或在該申索以其他方式處置前，藉向總選舉事務主任提交的撤回通知書而撤回。撤回通知書必須採用選管會指明的表格(候選人在遞交提名時會獲發給該表格)。
17. 如果政府已支付資助，但獲資助者是無權獲得全部或部分已付的款額的話，在總選舉事務主任給予該需要還款的獲資助者書面通知的日期後三個月內，該獲資助者必須歸還全部或部分(視屬何情況而定)已付的款額給政府。

## 核數師須知

### 背景資料

18. 根據該計劃，申索資助必須由候選人以選管會指明的表格作出。申索表格須連同一份載有由核數師審計的申報選舉開支帳

目的選舉申報書(《立法會條例》第 60I 條)。

19. 《立法會選舉及區議會選舉資助規例》中訂明的核數師職責詳載於上文第 6 段。

#### 聘書

20. 候選人必須清楚理解核數師所提供的服務性質，並與核數師達成協議，這點非常重要。為免產生誤解，有關協議應以聘書方式訂立。核數師接受候選人聘用前，應先行就聘書條款與候選人達成協議。

#### 計劃和進行核證工作

21. 決定擔負這項核證工作的核數師應熟悉相關的條例和規例，例如：

(a) 《立法會條例》(第 542 章)第 VIA 部；

《選舉(舞弊及非法行爲)條例》(第 554 章)第六部；

《立法會選舉及區議會選舉資助規例》(第 541N 章)；以及

(b) 選管會的《立法會選舉活動指引》，尤其是題為“選舉開支及捐贈”的章節及題為“可被算為選舉開支的開支項目”的附錄。

22. 核數師應計劃和進行合理核證工作使他就選舉申報書是否符合《選舉(舞弊及非法行爲)條例》第 37(1)(a)及 2(b)(i)及(v)條得出合理結論。如有疑問，核數師應參考相關的條例／規例及選管會的《立法會選舉活動指引》，並在適當的情況下要求選舉事務處作出澄清。

23. 核數師在計劃核證工作時，應對內部監控有所了解。要取得內部監控所需的資料，核數師應考慮親臨競選場地以便對內部監控有概括的認識，以及取得關於主要供應商、義務工作者和一般競選開支等事項的資料。

24. 在進行合理核證工作時，核數師為了作出結論，應採取他認為



按當時情況所必要的程序<sup>3</sup>，並取得一切他認為必需的資料及解釋。

25. 核數師應明瞭與候選人選舉開支會計帳目有關的核數風險。因此，對於候選人有可能招致的選舉開支的特別事項，核數師應格外留意，其中包括：

- (a) 選舉開支指於選舉期間或選舉之前或後，一名候選人或代表候選人的選舉開支代理人為促使該候選人於該次選舉中當選，或為阻礙另一候選人或其他候選人當選而招致或將招致的開支，並包括包含貨品及服務而用於上述用途的選舉捐贈的價值。
- (b) 每項 100 元或以上的選舉開支必須有發票及收據(列明開支詳情)證明。
- (c) 一般選舉開支可包括：
  - (i) 支付代理人及助理的費用和津貼；
  - (ii) 膳食及飲品費用；
  - (iii) 選舉廣告費；
  - (iv) 為進行競選活動而租用地方的費用；
  - (v) 文具、影印及電話費；
  - (vi) 郵費及交通費；
  - (vii) 候選人所屬政治團體或組織為促使其當選所招致的費用(如沒有明確提及候選人，則宣傳該政治團體

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<sup>3</sup> 核數師採取的程序一般包括：

- (a) 進行交易事項測試；
- (b) 了解有關的會計系統及監控程序，以評估其是否足以作為擬備有關申報選舉開支帳目的根據，並確定候選人有否備存妥善的帳簿和紀錄；
- (c) 評估候選人在擬備申報選舉開支帳目時所作的重要估計和判斷；以及
- (d) 衡量申報選舉開支帳目所載資料整體上是否充分。

或組織政綱的聚會所招致的費用不會被計算為選舉開支)；

(viii) 用於候選人競選活動的貸款所招致的利息。

26. 核數師應注意，正如大部分接受捐款的機構一樣，在信納捐贈紀錄是否完整無缺上，本身是有局限的。因此，要確定有多少(如有的話)未予記錄的捐贈是不可能的。此外，由於捐贈的財物和服務既是捐贈亦是開支，因此也不可能確定所有開支已予以記錄。雖然如此，核數師應提高警覺，留意是否有可疑情況，令人懷疑申報選舉開支的帳目並不完整。例如，如果競選開支遠超捐款數額，或銀行戶口的對帳工作有欠妥當，即表示可能有些現金收入(通過捐款或貸款形式)未予記錄。核數師應查問有關開支作了何等用途。核數師在估計實物捐贈的合理價值時，應一併考慮相關的實務事宜。
27. 核數師亦應向候選人和候選人的司庫查問，以確保候選人的所有選舉開支均參照選管會的《立法會選舉活動指引》，尤其題為“選舉開支及捐贈”的章節及題為“可被算為選舉開支的開支項目”的附錄的規定予以記錄。

符合《選舉(舞弊及非法行爲)條例》第 37(1)(a)條的規定

28. 關於符合《選舉(舞弊及非法行爲)條例》第 37(1)(a)條規定方面，核數師要保證開支的完整和準確並非易事，因為要斷定候選人的帳簿和紀錄是否載有與選舉有關的所有交易事項並不是切實可行的。鑑於上述情況，核數師應執行適當程序，以支持其有關選舉申報書是否在所有要項上均符合《選舉(舞弊及非法行爲)條例》第 37(1)(a)條的結論，即在選舉申報書內的申報選舉開支帳目，已開列候選人所提供給核數師的帳簿及紀錄上所載列的候選人選舉開支。

符合《選舉(舞弊及非法行爲)條例》第 37(2)(b)(i)及(v)條的規定

29. 關於符合《選舉(舞弊及非法行爲)條例》第 37(2)(b)(i)及(v)條規定方面，核數師應確保候選人按照該條款的規定，保存足夠的紀錄以符合文件證明的要求。

#### 聲明書

30. 核數師應向候選人獲取一份聲明書，就核數師認為對其提出結論十分重要的事情作出聲明。例如，核數師應向候選人獲取書

面保證，述明候選人並不察覺有任何違反《選舉(舞弊及非法行為)條例》第 37(1)(a)及(2)(b)(i)及(v)條規定的事情。

### 報告

31. 如核數師認為候選人並未有就申報的選舉開支妥存一套帳簿及紀錄，或候選人並未正當地擬備選舉申報書(載有申報的選舉開支帳目)，又或者核數師未能獲取所有必需的資料及解釋以進行合理核證工作，他應在核數師報告中提出適當的保留意見。
32. 如核數師認為存在任何其他不符合《選舉(舞弊及非法行為)條例》第 37(1)(a)及(2)(b)(i)及(v)條規定的情況，而該等情況是具關鍵性的，他應全面披露有關事項。如可能的話，他應在核數師報告中量化該等不符合規定的情況所造成的影響。

### 核數師報告樣本

33. 核數師報告樣本載於附件。

選舉事務處  
二零零八年七月

立法會選舉資助計劃  
選舉申報書(連同申報選舉開支帳目)  
獨立核數師報告樣本

獨立核數師報告

致(選區／界別名稱、候選人姓名)(“候選人”)

我們已根據《選舉管理委員會(立法會選舉及區議會選舉資助)(申請及支付程序)規例》(第 541N 章)第 3(5)條的規定，對隨附有關 [ ] 年]立法會\*選舉／[選區／界別名稱]補選(“選舉”)的候選人選舉申報書內第 \_\_\_ 至 \_\_\_ 頁所載的申報選舉開支帳目進行合理核證。

候選人與核數師各自的責任

候選人須遵從《選舉(舞弊及非法行為)條例》(第 554 章)(“有關條例”)第 37(1)(a)及(2)(b)(i)及(v)條的規定，擬備選舉申報書(包括申報選舉開支帳目)並對此負責。

我們的責任是根據我們所執行程序的結果，就選舉申報書是否在所有要項上均符合有關條例第 37(1)(a)及(2)(b)(i)及(v)條作出獨立結論，並向閣下報告<sup>1</sup>。

結論的基礎

我們根據香港會計師公會頒布的《香港核證準則第 3000 號 — 歷史財務資料審計或審閱以外的核證業務》，並參考香港特別行政區政府選舉事務處於二零零八年七月發出的《立法會選舉資助計劃—立法會選舉候選人和候選人的獨立核數師須知》(“《須知》”)進行核證工作。

合理核證工作包括執行《須知》所訂的程序，以及以抽查方式查核選舉申報書內有關申報選舉開支帳目所載數額及披露事項的憑證，亦包括評估候選人於擬備申報書內有關申報選舉開支帳目時所作的重大估

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<sup>1</sup> 核數師可按照其風險管理政策並參考 Professional Risk Management Bulletin No. 2 “Auditors’ Duty of Care to Third Parties and The Audit Report”，在此或報告的其他地方，闡明其須予負責的對象。

計和判斷。

鑑於與選舉相關的交易的性質，我們無法於切實可行的範圍內確定候選人的帳簿及紀錄是否已包括所有有關交易。因此，我們在計劃和進行工作時，均以取得一切認為必需的資料及解釋為目標，務求獲得充分的憑證，以合理地確定選舉申報書是否在所有要項上均符合有關條例第 37(1)(a)條的規定，即在選舉申報書內的申報選舉開支帳目，已開列候選人所提供給我們的帳簿及紀錄上所載列的候選人選舉開支；以及選舉申報書內的申報選舉開支是否在所有要項上均符合有關條例第 37(2)(b)(i)及(v)條的規定。

我們相信，我們的工作已為我們的結論提供合理的基礎。

## 結論

在上文所述的基礎上，我們認為：

- 選舉申報書在所有要項上均符合有關條例第 37(1)(a)條的規定，即在選舉申報書內的申報選舉開支帳目，已開列候選人所提供給我們的帳簿及紀錄上所載列的候選人選舉開支；及
- 選舉申報書內申報的選舉開支在所有要項上均符合有關條例第 37(2)(b)(i)及(v)條。

## 本報告的用途

本報告專供候選人提交香港特別行政區政府選舉事務處之用，並不擬、亦不得供任何其他人士作任何其他用途。

[事務所名稱]

[\*執業會計師／會計師]

[地址]

香港

[日期]

\*刪去不適用者。