

2020

Standing Committee on Standards and Development



THE
LAW SOCIETY
OF HONG KONG
香港律師會

STANDING COMMITTEE ON STANDARDS & DEVELOPMENT



The Standing Committee on Standards and Development is responsible for establishing standards and rules and formulating policies on the education, training and regulation of solicitors, and on their conduct and practice management.

The Standing Committee convened 12 meetings.

Businesses dealt with by the Standing Committee during meetings and by paper circulation are categorized into the following:

- (a) Formulating policies on regulating solicitors:
- Revision of the *Pilot Scheme for Online Payment of Costs on Account and Settlement of Fees* (“*Pilot Scheme*”) and launch of the revised *Pilot Scheme* pursuant to the instructions of the Council;
 - Consideration of the problems of “orphaned firms” and formulating the policies to deal with them;
 - Review of the operation and the policy intent of section 53 of the *Legal Practitioners Ordinance* Cap. 159 (“*LPO*”);
 - Review of the operation of Principle 2.07 of *The Hong Kong Solicitors’ Guide to Professional Conduct*, third edition, Volume 1 (“*Conduct Guide*”);
 - Consideration of the proposals of the Anti-Money Laundering (“AML”) Committee on how to respond to the comments made by the Financial Action Task Force (“FATF”) in the Mutual Evaluation Report;
 - Review of the system of appointment of cessation agents under *Practice Direction D7(2)* and *Practice Direction Q2*;
 - Establishment of a Panel of Chinese Language Law Draftsmen.
- (b) Keeping under regular review the *LPO* and its subsidiary legislation, The Law Society’s *Practice Directions* and the *Conduct Guide*:
- Introduction and implementation of the amendments to rule 3 of the *Practising Certificate (Solicitors) Rules* as part of the relief measures for the COVID-19 pandemic by reducing the fee payable for an application for a practising certificate for the practice year beginning on 1 January 2021 and ending on 31 December 2021 from \$6,500 to \$1,950;
 - Introduction and implementation of the amendments to the *Practising Certificate (Solicitors) Rules* to reinstate the fee payable for an application for a practising

certificate for the practice year beginning on or after 1 January 2022 from \$1,950 to \$6,500 to ensure the financial position of The Law Society remains intact;

- Introduction and arrangement for the gazettal of the Foreign Lawyers Registration (Fees)(Amendment) Rules to reduce the first registration fees and renewal of registration fees of foreign lawyers and foreign firms by 50% commencing on 1 July 2021 for one year;
 - Review of the *Limited Partnership Fund Ordinance* which came into operation on 31 August providing for the registration of funds as limited partnership funds and for the operation, striking off, deregistration, dissolution and winding up of such registered funds. In particular, the Standing Committee reviewed the mandatory requirement for a limited partnership fund to appoint a responsible person to carry out the AML and counter-terrorist financing (“CTF”) functions stipulated under Schedule 2 to the *AML/CTF Ordinance* (“*AMLO*”) and the introduction of a new section 9A (1AAB)(c) to the *LPO* and the amendments to section 9A (3) of the *LPO*;
 - Proposal of amendments to section 55 of the *LPO*;
 - Proposal of amendments to the Chinese text of rule 7(1)(b)(iii) of the *Foreign Lawyers Registration Rules*;
 - Proposal of amendments to section 53(1) of the *LPO* and having reviewed rounds of comments of the Department of Justice (“DOJ”) on the proposed amendments.
- (c) Overseeing the administration of the *Continuing Professional Development* (“CPD”) *Scheme* and the *Risk Management Education* (“RME”) *Programme*:
- Formulation of an extension of time and exemption for legal practitioners to comply with their CPD and RME statutory requirements in the 2019/20 CPD/RME practice year as part of the relief measures for the COVID-19 pandemic (“general exemption”);
 - Preparation of Circular on the general exemption and formulation of the amendments to the Statement of Compliance with CPD and RME Requirements;
 - Issuance of Guidance Notes on Completing the Statement of Compliance with CPD and RME Requirements for the renewal of the 2021 practising certificate;
 - Formulation of proposals and Circular to revise the CPD statutory requirements of solicitors who were granted a CPD suspension or who held a practising certificate for part only of the 2019/20 CPD practice year as a result of the general exemption granted by the Council to legal practitioners;
 - Formulation of proposals and Circular to revise the policy on carrying over CPD

points in the 2019/20 and 2020/21 CPD practice years as a result of the general exemption granted by the Council to legal practitioners;

- Formulation of proposals and Circular to revise the criteria and to streamline the procedures for CPD accreditation of webinars to facilitate legal practitioners to fulfil their CPD statutory requirements by taking webinars in place of face to face courses in the light of the COVID-19 pandemic;
 - Effecting amendments to the CPD Information Package and the RME Information Package;
 - Recommendations to the Council on resolving the applications of accredited providers for waivers of the requirements in the Provider Accreditation Agreements under the *CPD and RME Provider Accreditation Schemes* in response to the COVID-19 pandemic needs;
 - Making resolution to deal with the failure of a legal practitioner to comply with his CPD requirements in the 1990s;
 - Revising the conditions for granting retrospective exemptions in respect of RME statutory requirements;
 - Recommendations to the Standing Committee on Policy and Resources on the application of a legal practitioner for a waiver of the requirement to pay the registration fee of the RME non-principals' core course;
 - Consideration of the recommendations of the College of Law, Australia and New Zealand ("College of Law") on the review and enhancement of the *RME Programme*;
 - Review of the AML checklist prepared by the College of Law on the RME courses;
 - Consideration of the Expressions of Interest for appointment as a course provider to develop a RME elective on high risk issues in legal practice and resolution on the tenderer to be appointed;
- (d) Overseeing the administration of the *Overseas Lawyers Qualification Examination* ("*OLQE*"):
- Approval of the documentation of the 2020 *OLQE* including the 2020 *OLQE* Information Package and Supplementary Information Package;
 - Approval of the logistics of the 2020 *OLQE* including the preventive and contingency measures to be taken in the light of the COVID-19 pandemic including but not limited to the Health Declaration Forms to be completed by the candidates and examination

personnel respectively;

- Review of the application of an applicant for alternative arrangement to sit the *OLQE* and formulation of the recommendation to the Council on the application;
- Consideration and renewal of appointment of the incumbent Chief Examiner and Examiners and appointment of a new Co-Chief Examiner and other Examiners;
- Resolution on the allocation of responsibilities between the two Co-Chief Examiners;
- Review of the job description of the Co-Chief Examiners;
- Review of the fees of the Co-Chief Examiners and Examiners;
- Amendments to the Marking Procedures;
- Consideration and review of the results of the 2019 *OLQE*;
- Determination of the applications for review under rule 9 of the *Overseas Lawyers (Qualification for Admission) Rules* (“*OLQE Rules*”);
- Review of the *OLQE* exemption guidelines taking into account factors such as the requirements, policies and standards of admission of other jurisdictions;

(e) Overseeing legal education:

- Renewal of appointment of External Examiners of the *Postgraduate Certificate in Laws* (“*PCLL*”) Programmes of City University (“CityU”), the Chinese University of Hong Kong (“CUHK”), and The University of Hong Kong (“HKU”) and appointment of new External Examiners;
- Renewal of appointment of representatives of The Law Society on the *PCLL* Academic Boards of CityU and appointment of new representatives;
- Consideration of the proposal of HKU on the chairmanship of the *PCLL* Academic Board;
- Renewal of appointment of the representative of The Law Society on the Law School Board of CityU;
- Consideration and review of the proposals of CityU, CUHK and HKU to conduct the *PCLL* examinations online;
- Consideration and review of the concerns raised by *PCLL* students about online examinations;

- Nomination of a representative to speak at the lecture on “Professional Conduct” at CityU;
 - Consideration and review of the request of law firms and law students for alternative arrangements to take the *Hong Kong Conversion Examination for PCLL Admission* (“*Conversion Examination*”);
- (f) Overseeing trainee solicitor training of trainee solicitors:
- Consideration of the amendments proposed by DOJ to the *Legal Trainee Scheme*;
 - Amending *the Code of Good Practice in the Recruitment of Trainee Solicitors* (“*Code*”) to, inter alia, clarify that mutual release from a trainee solicitor contract must be effected in writing and signed by all parties concerned and any release should not be unreasonably withheld;
 - Issuance of Circular on the amended *Code*;
 - Review of the regulatory regime of trainee solicitors, in particular, trainees looking for other training positions after commencement of trainee solicitor training;
 - Responding to the enquiry of a trainee solicitor on variation of work days and salary;
 - Responding to the enquiry of a trainee solicitor on her difficulties of commencing training in Hong Kong because of travel restrictions imposed by other countries due to the COVID-19 pandemic;
 - Formulation of guidelines and conditions on remote training and supervision of trainee solicitors in the light of the COVID-19 pandemic;
- (g) Supervising the work and the operation of the Committees, Sub-Committees, Working Parties and Working Groups under its umbrella:
- Review on a regular basis all minutes of the meetings of the Committees and Working Parties under its umbrella;
 - Review of the composition of the Committees and Working Parties, renewal of appointment of their Members and appointment of new Members;
 - Recommendations to the Council on the renewal of appointment of the Members of the Committees and Working Parties;
 - Review of and follow up on the progress of the work of the Working Party on Practice in Service Centres, at Home, in Domestic Practices and by Virtual Offices, made

recommendations to the Council on its membership, terms of reference and the processing of its work;

- Review and follow up on the progress of the legislative amendment exercise to enable solicitors to incorporate their practices, including the progress in the drafting of the *Solicitor Corporation Rules*, the *Foreign Lawyer Corporation Rules*, the amendments to the *LPO* and the consequential amendments to the subsidiary legislation of the *LPO*;
- Reviewing and resolving to rename the Working Group on Proactive Management Based Regulation as a Sub-Committee.

The Standing Committee also supervises its various committees/subcommittees/working parties and considers their proposals from time to time.

AML COMMITTEE

Non-Financial Businesses and Professions

The main terms of reference of the AML Committee are to review the guidelines on money laundering, to revise those guidelines, to liaise with the Narcotics Divisions of the Security Bureau and the DOJ on practical issues relating to compliance requirements.

The AML Committee held four meetings including one with the representatives of the Security Bureau.

The Mutual Evaluation Report on Hong Kong assessing the effectiveness of Hong Kong in preventing money laundering and terrorist financing was published by FATF on 4 September 2019. FATF acknowledged The Law Society's efforts in raising the awareness of the legal professionals in money laundering. The AML Committee considered the suggestion of FATF that The Law Society should take a proactive and robust approach in monitoring and enforcing the AML/CTF obligations. The AML Committee explored various options, including employing a full time AML executive by The Law Society to deal with the AML matters exclusively; appointing inspectors to check the law firms' compliance with the AML requirements; appointing an accounting firm or a law firm to check the law firms' compliance with the AML requirements; requiring the Senior Partner of each firm to sign a Statement of Compliance of the AML requirements on behalf of the firm when the Senior Partner applies to renew his or her practising certificate every year; and conducting a survey on law firms' AML mechanism and risk profiles and so on.

These recommendations are under consideration by the Standing Committee, the Standing Committee on Policy and Resources and the Council.

The HKSAR Government has set up a collaborative platform inviting representatives of the supervisory bodies of the Designated Non-Financial Business and Professions ("DNFBPs") and

various Government departments to share their experiences in AML matters.

Experience sharing sessions were arranged to enhance understanding and collaboration between solicitors and professionals of the other sectors.

The Chair and the Committee Members attended a Risk-Based Supervision Sharing Session for the DNFBPs' Supervisors on 15 January and exchanged constructive and valuable views with the representatives of the other regulatory bodies.

They also attended the 2nd Hong Kong Money Laundering ("ML") and Terrorist Financing ("TF") Risk Assessment Stakeholders Workshop organised by the Risk Assessment Unit of the Hong Kong Police on 10 November in which they discussed details of the Risk Assessment on Hong Kong based on the National Risk Assessment Tool Guidance Manual issued by the World Bank Group with the other representatives of the DNFBPs.

The AML Committee considered and discussed the following Consultation Papers and documents issued by FATF, the Government and other regulatory bodies during the year:

- (a) National Risk Assessment Tool Guidance Manual issued by the World Bank Group;
- (b) Consultation Paper issued by the Securities and Futures Commission on the proposed amendments to the:
 - (i) Guideline on AML/CTF (For Licensed Corporations) and
 - (ii) Prevention of ML/TF Guideline for Associated Entities;
- (c) Survey on digital transformation compiled by FATF;
- (d) Consultation Paper issued by the Financial Services and the Treasury Bureau on the proposed introduction of:
 - (i) a licensing regime for virtual asset services providers;
 - (ii) a registration regime for dealers in precious metals and stones; and
 - (iii) technical amendments to *AMLO*;
- (e) Judgment of the Dreamvar's case from the AML perspectives;
- (f) 2nd draft of the Risk Based Supervision Guidance issued by FATF;
- (g) Draft Paper on "Money Laundering and the Illegal Wildlife Trade" issued by FATF; and

(h) Methodology Clarifications to improve Quality and Consistency issued by FATF.

AML seminars were held regularly to brief legal practitioners on the major provisions of *AMLO*, provide an overview of the latest developments on international and domestic AML, enhance practitioners' understanding of the statutory obligations of suspicious transaction reporting and provide a forum for discussion on matters of common concerns. Two AML seminars were co-organized with the HKSAR Government on 5 June and 24 November respectively. The speakers were the Chairman and a Member of the Committee, representatives of the Security Bureau, DOJ and the Joint Financial Intelligence Unit.

These seminars were well received and were attended by about 700 participants. Preliminary polls were conducted at the end of the seminars to collate views of the practitioners on the follow-up actions to be taken by The Law Society after the publication of the Mutual Evaluation Report.

In addition, the accredited RME course providers of The Law Society delivered another five courses for practitioners on AML under The Law Society's *RME Provider Accreditation Scheme*. 550 participants attended the courses.

CPD COMMITTEE

The main terms of reference of the CPD Committee are to formulate policies, procedures, guidelines, to monitor the implementation and administration of the *CPD Scheme* and to keep under review the relevant policies, procedures and guidelines.

The *CPD Scheme* aims at providing a convenient framework for the legal profession to meet the changing demands of clients and society by updating the practitioners on legal knowledge and skills.

The Law Society and Hong Kong Academy of Law Ltd. ("Academy") conducted a total of 251 CPD and RME courses during the year. Of the 251 courses, seven courses were conducted in Cantonese and the remainder in English. The courses attracted an attendance of 20,546 participants.

The Law Society and the Academy are grateful to the 81 presenters who contributed by sharing their valuable experiences and expertise.

As a result of the COVID-19 pandemic and to reduce the risk of transmission, the majority of the CPD and RME on-site courses of the Society and the Academy were suspended from March onwards and the courses were conducted by webinars.

Some of the highlights of The Law Society and the Academy's courses are:

National Security Law (“NSL”)

The NSL was passed by the Standing Committee of the National People's Congress of the People's Republic of China on 30 June. It is annexed to Annex III of the Basic Law as part of the national laws that apply in Hong Kong and it came into effect upon gazettal on the same day.

The Law Society held a “Roundtable Discussion Forum on NSL” on 15 July to discuss law enforcement, criminal offences under the NSL, the authority of the Office for Safeguarding National Security of the Central People's Government in Hong Kong, issues on constitutional and procedural law, the role of the courts, and the impact of the NSL on Hong Kong's judicial independence, human rights and the Rule of Law. The Forum attracted over 600 participants.



Roundtable Discussion Forum on NSL

AML

AMLO came into effect on 1 March 2018. The Law Society and the Academy held two seminars on AML jointly with the Narcotics Division, Security Bureau of the HKSAR Government on 5 June and 24 November. The seminars briefed practitioners on the major provisions of *AMLO*, their statutory client due diligence and record keeping requirements when they are engaged in specified transactions, and their statutory obligations on suspicious transaction reporting. The seminars also provided practitioners with an overview of the latest developments on international and domestic AML and counter-terrorist financing. Approximately 700 participants attended the seminars.



AML Seminar for Lawyers

In addition, the accredited RME course providers of the Law Society delivered another five courses for practitioners on AML for the Academy under the Law Society's *RME Provider Accreditation Scheme*. 550 participants attended the courses.

Legal Tech

The Academy conducted 31 seminars and workshops on Legal Tech covering emerging technology, machine learning, robotics process automation, Python, natural language processing, artificial intelligence in the legal sector, data analysis, digital forensic, bitcoin, blockchain, Fintech and its regulation and compliance, technology support for legal operations, technology and regulations for cyber identity, big data in e-discovery and document review, InsurTech, e-discovery in litigation and preservation of evidence for courts, cybersecurity and managing data breach. Over 4,670 participants attended the seminars and workshops.



Seminar on "Emerging Technology"

Civil Litigation and Advocacy

Two seminars on “Litigation Mistakes” were held on 15 January and 13 October. The speaker analysed various claims against solicitors and law firms under the *Professional Indemnity Scheme* (“*PIS*”) of The Law Society, and identified the common mistakes made in litigation practice and the risks of claims arising from such common mistakes. The seminars attracted over 380 participants.

The Academy conducted a 2-day workshop on civil practical advocacy on 3 and 4 July and a half-day workshop on civil written advocacy on 23 June to improve and enhance the advocacy skills of practitioners in conducting interlocutory applications and trials. 11 and 16 participants attended the workshops on civil practical advocacy and civil written advocacy respectively.

Another training course on civil advocacy was conducted on 9 June on drafting summonses, consent orders, judgments and on how to obtain default judgment involving claims arising from internet scams or banking frauds, how to prepare a 3-minute summons before a Master in Chambers and pursue a claim for summary judgment and garnishee applications. The course was attended by over 230 participants.



Training course on Civil Advocacy

PIS

A seminar on “Dos and Don’t Under the *PIS* and Claim Handling Process” was conducted on 5 October. The seminar provided practitioners with an overview of the operation of the *PIS*, the recent claims trend, the coverage and the exclusion provisions set out in the *Solicitors (Professional Indemnity) Rules* (“*Rules*”), the implications if a claim for indemnity under the *PIS* is made, and the indemnified’s notification obligation and the importance of compliance under the *Rules*. An indemnified’s dos and don’t were also discussed by way of hypothetical case studies. The seminar attracted over 166 participants.



Dos and Don't Under the PIS and Claim Handling Process

Building Management

The Academy conducted a seminar on “Integrity and Quality Building Management” on 12 December. The seminar briefed practitioners on the key provisions of the *Building Management Ordinance* and the corruption problems in building management, and introduced the corruption preventive measures carried out by the *Independent Commission Against Corruption*. The seminar attracted 103 participants.



Integrity and Quality Building Management

In addition, a “Refresher Course on Property Management” was provided to the incumbent panel solicitors of the “*Free Legal Advice Service on Building Management*” operated by the Home Affairs Department of the HKSAR Government on 21 October. The course examined and discussed the recent case law on building management. 86 participants attended the course.

The CPD Scheme

Pursuant to rule 9 of the *CPD Rules Cap. 159W* (“CPD Rules”), 156 legal practitioners were granted suspension from the *CPD Scheme* during the year. Pursuant to rule 8 of the *CPD Rules*, 26 solicitors and 10 trainee solicitors were granted an exemption from complying with the CPD requirements. These figures do not include those who are entitled to the general exemption granted by the Council as a result of the COVID-19 pandemic. Four trainee solicitors whose duration of trainee solicitor training had been reduced from the statutory two-year training period were granted partial exemption from participation in the *CPD Scheme*.

3,521 Statements of Compliance with CPD/RME requirements completed by solicitors were reviewed. CPD audit was conducted on 668 trainee solicitors during the year. Three trainee solicitors were found to have failed to comply with the *CPD Rules*.

The following matters were dealt with by the Committee by paper circulation:

- (a) The CPD statutory requirements of solicitors who were granted a CPD suspension or who held a practising certificate for only part of the 2019/20 CPD practice year;
- (b) Applications of course providers for a waiver of the requirements in the *CPD Provider Accreditation Scheme*;
- (c) Accreditation criteria and procedures for webinars; and
- (d) Various options for an extension of time and exemption from compliance with CPD requirements in the 2019/20 CPD practice year.

CPD ACCREDITATION SUB-COMMITTEE

The main terms of reference of the Sub-Committee are to determine applications for accreditation of CPD courses and activities, to determine the number of CPD points awarded on accreditation, to review the criteria for accreditation and to monitor the providers of accredited courses.

A total of 3,478 courses, compared with 5,081 courses in 2019, were accredited as CPD courses. In terms of applications, 1,055 of the 3,478 courses were accredited on a course-by-course basis and 2,172 were accredited under the *Provider Accreditation Scheme*. In terms of course providers, 20 of the 3,478 courses were provided by The Law Society, 248 were provided by the Academy of which 184 were provided under the *RME Programme*, 346 were provided by commercial providers, and the remaining 2,864 were provided by in-house providers such as universities, professional bodies and law firms.

Matters resolved by the Sub-Committee by paper circulation included applications for accreditation of courses, applications for renewal of accredited provider status, accreditation of providers, and accreditation of committees and working parties.

The total number of accredited providers under the *Provider Accreditation Scheme* at the end of the year was 61. The Sub-Committee approved two postgraduate and other law courses and eight legal journals and books, 104 legal researches, and accredited 10 committees and working parties for the purpose of compliance with the CPD requirements during the year.

Members of the Sub-Committee continued to monitor the standard of accredited CPD courses by reviewing course evaluation records and attending selected accredited courses. 25 courses were monitored during the year.

GUIDANCE COMMITTEE

The main terms of reference of the Committee are to provide guidance and advice to the solicitors' profession and others on professional conduct and ethics, including the *Conduct Guide*.

The Committee held two joint meetings with the DOJ and the other specialist Committees.

One joint meeting was held with the DOJ, the Mediation Committee and the Personal Injuries Committee to discuss the Third Party Funding of Arbitration and Mediation. The other joint meeting was held with the Property Committee, the Innotech Committee and the Solicitors' Accounts Rules Committee to discuss the on-line payment of costs and disbursements on account and settlement of fees from the perspective of professional conduct.

The Committee dealt with five enquiries from members and four referrals from the other Committees or Departments within the Secretariat on the following issues of professional conduct:

- (a) Office management and supervision in formulating a disaster recovery plan;
- (b) Provision of a law firm's address to its former client as his address for service in Hong Kong;
- (c) Use of electronic signatures to issue a bill for a law firm;
- (d) Consultation Paper on "remote hearing-location of advocates" issued by the Judiciary;
- (e) Application of paragraph 6 (d) of the *Solicitors' Practice Promotion Code* and the disclosure of a client's identity in a tender exercise;
- (f) Potential risk of conflict of interests of a solicitor against a former client;
- (g) Consultation Paper on the review of Listing Rules relating to Disciplinary Powers and Sanctions issued by the Stock Exchange of Hong Kong Limited;
- (h) Prohibition of profit sharing between a practising solicitor and a consultancy entity

under rule 4 of the *Solicitors' Practice Rules*.

LEGAL EDUCATION COMMITTEE

The main terms of reference of the Committee are to monitor the *PCLL*, to set education standards for the profession, to monitor the entrants to the solicitors' profession including the need for a qualifying examination for such entrants.

The Committee conducted its business by way of meetings and by paper circulation. The Committee convened two meetings. Matters considered and dealt with by the Committee in meetings and by paper circulation included:

- (a) Appointment of External Examiners of CityU, CUHK and HKU;
- (b) *PCLL* online examinations proposed by CityU, CUHK and HKU;
- (c) Proposals to improve the *PCLL* Programme;
- (d) Appointment of the representatives of The Law Society on the *PCLL* Academic Board of CityU, the Law School Board of CityU and the Board of the Faculty of Law of HKU;
- (e) The functions and the roles of the representatives of The Law Society involved in the *PCLL*;
- (f) Feedback of the External Examiners on the *PCLL*;
- (g) Answers provided by CityU, CUHK and HKU on the questions raised by The Law Society on *PCLL* admission;
- (h) Proposal of Hong Kong Bar Association to move Civil and Criminal Procedure from the syllabus of the qualifying law degrees to the syllabus of *PCLL*;
- (i) Proposal of HKU School of Professional and Continuing Education ("HKU SPACE") to vary the English language requirement for admission to the *Higher Diploma for Legal Executives*;
- (j) Chairmanship of the *PCLL* Academic Board of HKU;
- (k) Online examinations proposed by HKU SPACE for the *Advanced Diploma in Legal Studies (Professional Stream)*;
- (l) Proposal of HKU SPACE to introduce the *Advanced Diploma for Legal Executives (Graduate Level)*;

- (m) Amendments proposed by HKU SPACE to the *Advanced Diploma for Legal Studies (Professional Stream)*;
- (n) Request of law firms and overseas law students for alternative arrangements to sit the *Conversion Examination*;
- (o) Concerns of *PCLL* students about online examinations;
- (p) Reports of the 3 law schools on the conduct of the online *PCLL* examinations;
- (q) Amendments proposed by the Hong Kong Institute of Vocational Education (“IVE”) to the *Professional Diploma for Legal Executives*;
- (r) Amendments proposed by IVE to the *Higher Diploma in Law and Administration*;
- (s) Proposal of IVE to conduct the examinations on the module “*Family Law and Matrimonial Practice*” in *Professional Diploma for Legal Executives* online.

A sharing session with the interns of law firms was organised in July. Vice-President Amirali Nasir; Ms. Veronica Heung, Magistrate of the Eastern Magistrates’ Courts; Ms. Gloria Cheung, Legal Officer, ESSAR Insurance Services Ltd. and Mr. Wesley Wong, S.C., J.P., Solicitor General, Legal Policy Division of DOJ shared their valuable practice experiences with summer interns and trainee solicitors. About 42 participants attended the sharing session.

Past President Dieter Yih and Vice-President Brian Gilchrist served as representatives of The Law Society on the Standing Committee on Legal Education and Training (“SCLET”), the statutory body established by the HKSAR Government to oversee legal education in Hong Kong under S74A of the *LPO*. SCLET held six meetings during the year.

MEDIATOR AND PARENTING CO-ORDINATOR ADMISSION COMMITTEE

The main terms of reference of the Committee are to establish and maintain panels of mediators and to approve the applications for admission of mediators to the panels, to review and safeguard the standards of mediators and their training, to liaise with other relevant organizations on issues pertaining to the development and training of mediators.

The Committee established a Working Group to consider the applications for appointment as a course provider to develop a course on general mediation. The Working Group convened two meetings.

Matters considered by the Committee by paper circulation and matters considered by the Working

Group in meetings and by paper circulation included:

- (a) Applications for admission as general mediators;
- (b) Applications for renewal of membership on the Panels of General Mediators, Family Mediators and Family Mediation Supervisors;
- (c) Application for admission to the Panel of International General Mediators;
- (d) Membership of the Committee;
- (e) Draft agreement for the appointment of a course provider to develop a general mediation training course;
- (f) Counter proposals of the tenderer for appointment as the relevant course provider;
- (g) Exemption from the CPD requirements in mediation training in the light of the COVID-19 pandemic.

The *Mediator Accreditation Scheme* was formally launched in August 2005. The Law Society joined the Hong Kong Mediation Accreditation Association Ltd. (“HKMAAL”) as a Founder Member and HKMAAL commenced operation on 2 April 2013. HKMAAL resolved that all Founder Members including The Law Society should stop conducting its stage two mediator assessments by 15 July 2013 and accrediting applicants as mediators by 15 September 2013. Thereafter, all accreditation of mediators must be conducted by HKMAAL.

In August 2015, The Law Society implemented the *Mediator Admission Scheme (General Mediators)*.

In November 2017, The Law Society further extended the *Mediator Admission Scheme (General Mediators)* to cover the admission of family mediators and family mediation supervisors and the *Mediator Admission Scheme (General Mediators)* was renamed as the *Mediator Admission Scheme*.

Solicitors who were not accredited by The Law Society as General Mediators, Family Mediators and Family Mediation Supervisors prior to September 2013 under the *Mediator Accreditation Scheme* may seek admission, subject to the requirements in the *Mediator Admission Scheme*, onto the Panel of Admitted General Mediators, Panel of Admitted Family Mediators and Panel of Admitted Family Mediation Supervisors through the *Mediator Admission Scheme*. Applications are considered and approved by the Committee on a case-by-case basis.

As of the end of the year, there were 175 solicitors on the Panel of General Mediators, 41 solicitors on the Panel of Family Mediators and nine solicitors on the Panel of Family Mediation Supervisors.

36 applications for renewal of membership on the Panel of General Mediators, five applications for renewal of membership on the Panel of Family Mediators and two applications for renewal of membership on the Panel of Family Mediation Supervisors were processed. 33 applications for renewal were approved.

In November 2017, The Law Society also established the Panel of Parenting Co-ordinators. Parenting Co-ordination is an alternative dispute resolution process whereby a Parenting Co-ordinator is appointed either by the courts or the parties in high conflicts matrimonial disputes to resolve child-related issues. As of the end of the year, there were 17 Parenting Co-ordinators on the Panel.

In January, The Law Society established the Panel of International General Mediators and the Panel of International Family Mediators to assist parties with mediation on international and cross-border disputes.

At the end of the year, there were 18 solicitors on the Panel of International General Mediators and seven solicitors on the Panel of International Family Mediators.

OLQE COMMITTEE

The main terms of reference of the Committee are to establish, keep under review and resolve the standards required of overseas lawyers sitting the *OLQE*, to establish and review the syllabi, reading lists of each Head of the *OLQE*, to prepare the *OLQE* Information and Supplementary Information Packages, to formulate policies on all procedural matters and logistics of the *OLQE*, and to supervise the Examination Panels.

The Committee conducted its business by way of meetings and by paper circulation. The Committee convened two meetings including a joint meeting with the Chief Examiner, Panel Convenors and Examiners.

Matters considered and dealt with by the Committee in meetings and by paper circulation included:

- (a) Results of the 2019 *OLQE*;
- (b) Feedback of the candidates on the 2019 *OLQE*;
- (c) The format and the logistical arrangements for the 2020 *OLQE*;
- (d) The 2020 and 2021 *OLQE* Information Packages, the 2020 *OLQE* Supplementary Information Package and related documents;

- (e) Appointment of Examiners and Panel Convenors;
- (f) Review of the fees of the Chief Examiner, Panel Convenors and Examiners;
- (g) The syllabus and the reading list of each Head of the 2020 *OLQE*;
- (h) Applications for special arrangements to sit the 2020 *OLQE*;
- (i) Membership of the Committee;
- (j) Amendments to the Marking Procedures;
- (k) Appointment of a Co-Chief Examiner;
- (l) Mode of examination of the 2021 *OLQE*;
- (m) Division of responsibilities between the Co-Chief Examiners;
- (n) Proposals for alternative arrangements to sit the *OLQE*;
- (o) Questions raised by preparatory course providers;
- (p) Preventive and contingency measures for the 2020 *OLQE* in the light of the COVID-19 pandemic.

OLQE ELIGIBILITY AND EXEMPTION COMMITTEE

The main terms of reference of the Committee are to determine the applications for exemption from sitting all or parts of the *OLQE*, the applications to sit the *OLQE*, the guidelines for approving such applications and any amendments to the *OLQE Rules*.

The Committee conducted its business by way of meetings and by paper circulation. The Committee convened seven meetings to resolve the applications to sit the *OLQE* and applications for exemptions and amendments to the *OLQE* Information Package.

During 2020, there were 306 *OLQE* applications. Of these, there were

- (a) 114 applications for exemption from sitting all or parts of the 2020 *OLQE*;
- (b) 191 applications for eligibility to sit or re-sit the *OLQE*; and
- (c) One application for direct admission as a solicitor.

202 eligible candidates sat the 2020 *OLQE*.

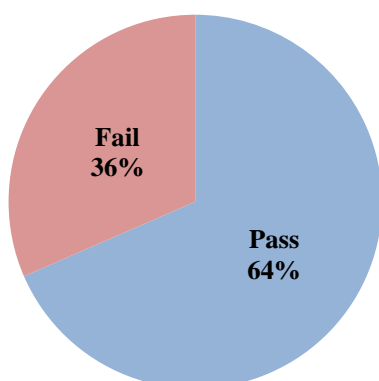
OLQE

The 26th *OLQE* was held from 27 October 2020 to 14 January 2021. A total of 202 candidates sat one or more written Heads of the Examination. 195 out of 202 candidates came from 15 overseas jurisdictions, six of which were non-common law jurisdictions. The remaining seven out of the 202 candidates were Hong Kong barristers.

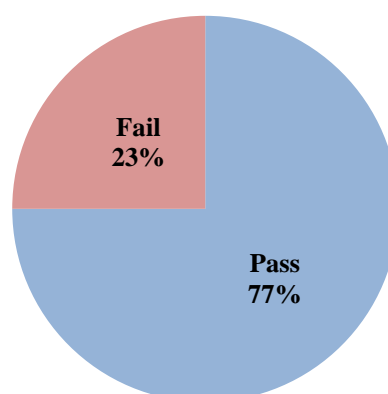
Of the 202 candidates, 105 candidates (52 %) passed the Examination, having passed each of the Heads that they were required to sit. 97 candidates (48%) failed the Examination, having failed one or more of the Heads that they were required to sit.

Figures 1 – 6 : Examination results with respect to each Head of the OLQE

*Figure 1 :
Head I – Conveyancing*



*Figure 2 :
Head II - Civil and Criminal Procedure*



*Figure 3 :
Head III - Commercial and Company Law* *Figure 4 :
Head IV – Accounts and Professional Conduct*

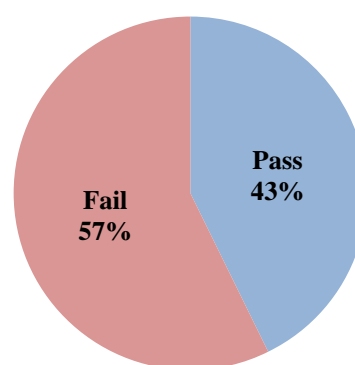
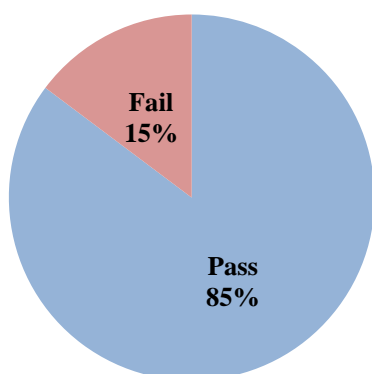


Figure 5 :
Head V – Principles of Common Law

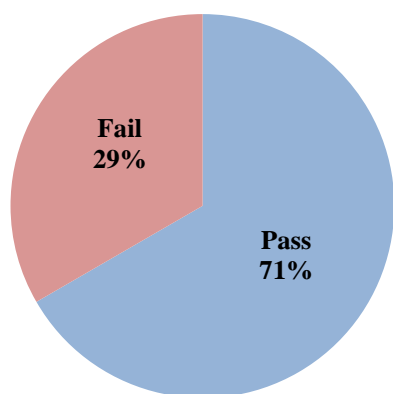


Figure 6 :
Head VI - Hong Kong Constitutional Law

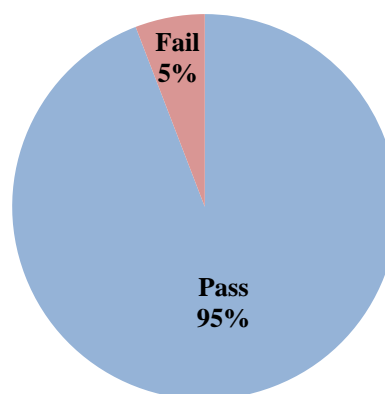
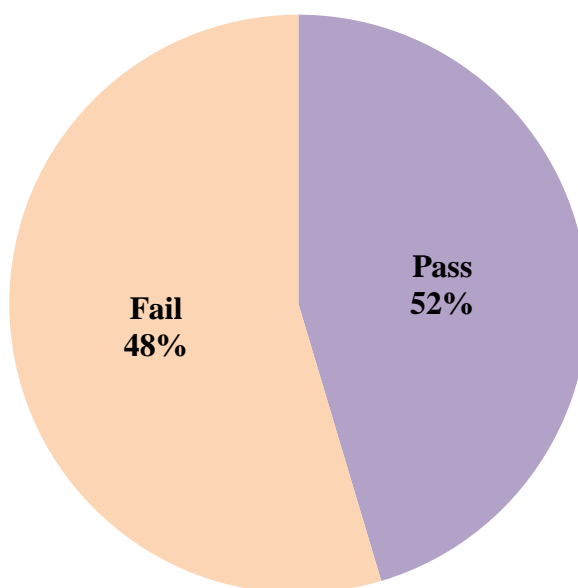


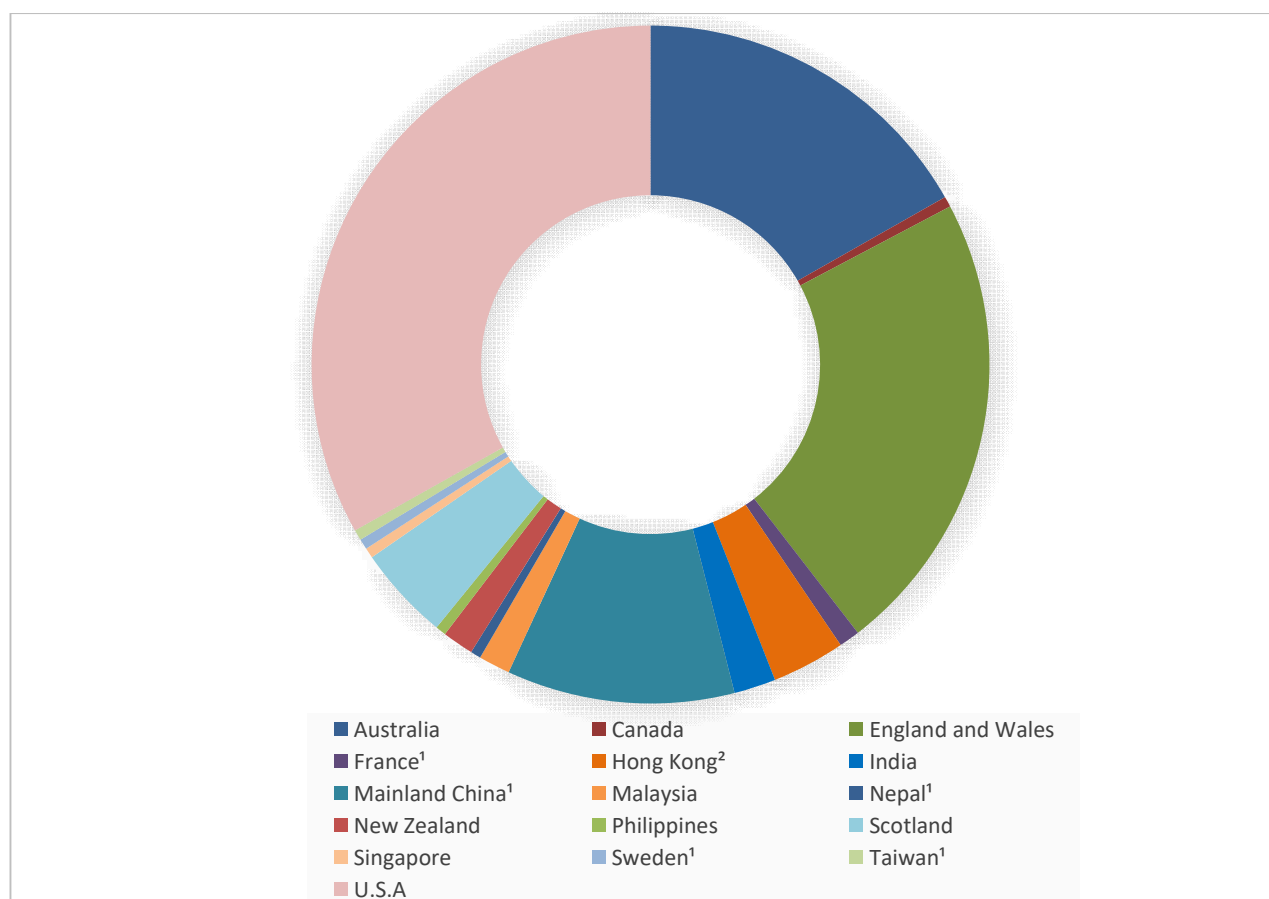
Figure 7 : Overall Examination Result



	No. of Candidates						Overall Result
	Head I	Head II	Head III	Head IV	Head V	Head VI	
Pass	88	49	52	47	5	104	105
Fail	50	15	9	63	2	6	97
Total	138	64	61	110	7	110	202

Written Heads *Head I – Head IV & Head VI*

Figure 8: Jurisdictions of the candidates



Jurisdictions	No. of Candidates	%*	Jurisdictions	No. of Candidates	%*
Australia	34	16.8	Nepal ¹	1	0.5
Canada	1	0.5	New Zealand	3	1.5
England and Wales	45	22.3	Philippines ¹	1	0.5
France ¹	2	1.0	Scotland	1	0.5
Hong Kong ²	7	3.5	Singapore	9	4.5
India	4	2.0	Sweden ¹	1	0.5
Mainland China ¹	22	10.9	Taiwan ¹	1	0.5
Malaysia	3	1.5	U.S.A.	67	33.2
			Total	202	

¹ Non-common law jurisdiction

² Barrister

* The percentages have been calculated to the nearest decimal point. Therefore the aggregation of the percentages may not add up to 100%

RME COMMITTEE

The main terms of reference of the Committee are to formulate and to keep under review the policies, procedures and guidelines of the *RME Programme* and to monitor the implementation and administration of the *RME Programme*.

The *RME Programme* aims at raising the awareness of risk issues and promoting good risk management of legal practice.

Since its implementation in November 2004, the *RME Programme* has been in operation for over 16 years extending its application gradually to all Hong Kong solicitors practising as sole practitioners, partners, associates, consultants, trainee solicitors, and registered foreign lawyers working in Hong Kong law firms.

With the establishment of the Academy, the RME courses are all offered through the Academy.

Five Module 1A, five Module 1B, five Module 2A and five Module 2B of principals' core courses, two Module 1 and two Module 2 of non-principals' core courses, six Module 1 and six Module 2 of registered foreign lawyers' core courses, 17 Module 1 and 17 Module 2 of trainee solicitors' core courses, 22 compulsory first elective courses for trainee solicitors, and 58 elective courses were held during the year. The majority of the courses were delivered via webinars. The Committee monitored closely the evaluation of these courses by the course participants.

RME electives have since 1 November 2008 been offered free of charge to those participants who have to fulfil their RME obligations in the relevant RME practice year and who have not attended any other RME electives during that year. Free core courses have also been offered by the Academy to all trainee solicitors since 1 November 2009. Since 1 November 2014, subject to certain exceptions, all courses within the *RME Programme* have been offered free to participants.

The Committee conducted its business by way of meetings and by paper circulation. The Committee convened one meeting during the year. Matters considered and dealt with by the Committee in the meeting and by paper circulation included:

- (a) The RME obligations of trainee solicitors;
- (b) Checklists prepared by the College of Law on the ethical requirements set out in the RME courses;
- (c) Conditions for granting retrospective exemptions in respect of RME statutory requirements;

- (d) Expressions of Interest for appointment as a course provider to develop a RME elective on high risk issues in legal practice;
- (e) Membership of the Committee;
- (f) Extension of time and exemption to comply with the RME statutory requirements in the 2019/20 RME practice year in the light of the COVID-19 pandemic;
- (g) Applications for exemption;
- (h) Amendments to the RME Information Package;
- (i) Procedures and criteria for RME accreditation of webinars;
- (j) Application for a waiver of the requirements in the *RME Accreditation Provider Scheme*;
- (k) Name of the Working Group on Proactive Management Based Regulation;
- (l) Enrolment policies of RME courses applicable to in-house solicitors.

44 applications for exemption from complying with the RME requirements made under rule 8A of the *Legal Practitioners (RME) Rules* were processed during the year.

RME ACCREDITATION SUB-COMMITTEE

The main terms of reference of the Sub-Committee are to determine the applications for accreditation of RME courses and activities, to review the criteria for accreditation and to monitor the providers of accredited courses.

78 applications for accreditation were processed, out of which 45 elective courses offered by law firms and other institutions and 29 elective courses offered by commercial providers were accredited.

Course provider accreditation for RME elective courses was introduced in 2007. 14 law firms accredited as RME elective course providers offered 62 in-house elective courses and another 12 elective courses to the general membership of The Law Society during the year.

The Sub-Committee also considered three applications for conducting legal research and one application for participation in committees for accreditation as RME elective activity.

TRAINEE SOLICITORS COMMITTEE

The main terms of reference of the Committee are to monitor the system of trainee solicitor contracts and the training of trainee solicitors, to consider all policies relating to them and to make recommendations on any changes in policies.

The Committee conducted its business by way of meetings and by paper circulation. The Committee convened one meeting. Matters considered and dealt with by the Committee in the meeting and by paper circulation included:

- (a) Membership of the Committee;
- (b) Regulatory regime of trainee solicitors, particularly those trainees who are looking for training positions after commencement of training;
- (c) Minimum wages of trainee solicitors;
- (d) The Comprehensive Review of Legal Education and Training conducted by SCLET and recommendations of the SCLET Consultants on trainee solicitor training;
- (e) Amendments to the *Legal Trainee Scheme* proposed by DOJ;
- (f) System for trainee solicitors to evaluate principals and law firms;
- (g) Variation of work days and salary of a trainee solicitor;
- (h) Remote training and supervision of trainee solicitors.

SOLICITORS' ACCOUNTS RULES COMMITTEE

The main terms of reference of the Committee are to handle enquiries arising from the *Solicitors' Accounts Rules* (“SA Rules”).

The Committee conducted its business by way of meetings and by paper circulation. The Committee held two meetings.

The Committee considered and discussed the draft Alert prepared by the Hong Kong Institute of Certified Public Accountants (“HKICPA”) relating to the *Accountant's Report Rules* and the *SA Rules*, in particular, rule 7A of the *SA Rules* which sets out the categories of persons who are authorized to operate client accounts. The Committee noted the statistics of the breaches of the *SA Rules* in the past 3 years and the referrals made by The Law Society to the Compliance Department of the HKICPA. The Committee had lengthy deliberations on this matter and resolved that the draft Alert could be issued by the HKICPA.

The Committee held a joint meeting with the Property Committee, the Innotech Committee and the Guidance Committee to discuss details of the on-line payment of costs and disbursements on

account as well as settlement of costs.

WORKING PARTY ON PRACTICE IN SERVICE CENTRES, AT HOME, IN DOMESTIC PREMISES OR BY VIRTUAL OFFICES

The main terms of reference of the Working Party are to carry out a feasibility study for legal practitioners to practise in service centres, at home, in domestic premises or by virtual offices and to review the relevant rules and regulations under which legal practitioners may practise in these other modes of operation.

The Working Party conducted its business by way of meetings and by paper circulation. The Working Party convened two meetings to discuss the pros and cons and issues involved in allowing flexible modes of operation, and to review the legislative provisions in Hong Kong with reference to the provisions in other jurisdictions where flexible practice arrangements are allowed.

The Working Party reported the progress of its feasibility study to the Standing Committee, and received feedback and recommendations from the Standing Committee on the way forward. The terms of reference have also been revised to cater for emerging needs including but not limited to those arising from COVID-19 pandemic. The Working Party will continue with the work to fulfil its terms of reference.

GUIDE WORKING PARTY

The main term of reference of the Working Party is to review and update the *Conduct Guide*.

The Working Party conducted its business by way of meetings and by paper circulation. The Working Party convened four meetings to review the principles and commentaries in the *Conduct Guide* including consideration and review of suggestions made by the general membership, specialist Committees and Working Parties of The Law Society on amendments to the *Conduct Guide*.

WORKING PARTY ON SOLICITOR CORPORATION RULES

The main terms of reference of the Working Party are to prepare the *Solicitor Corporation Rules* and the *Foreign Lawyer Corporation Rules*, the amendments to the *LPO* and the consequential amendments to the subsidiary legislation to the *LPO* to enable law firms to incorporate.

The Working Party conducted its business by way of meetings and by paper circulation. The Working Party convened two meetings.

Matters considered and dealt with in meetings and by paper circulation included:

- (a) Membership of the Working Party;
- (b) Progress of the consequential amendments to the subsidiary legislation to the *LPO* arising from the draft *Solicitor Corporation Rules*;
- (c) Enquiries raised by DOJ on the draft *Foreign Lawyer Corporation Rules*;
- (d) Proposal for the establishment of a Panel of Chinese Language Law Draftsmen;
- (e) Roll of solicitor corporations and roll of foreign lawyer corporations;
- (f) References to members, employees, directors of a solicitor corporation in the *LPO* as amended by the *Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997*;
- (g) Amendments to the *Barristers (Qualification) Rules* and the *Barristers (Qualification for Admission and Pupillage) Rules*.

WORKING PARTY ON THE PRACTISING CERTIFICATE (SPECIAL CONDITIONS) RULES

The main term of reference of the Working Party is to consider the amendments to the *Practising Certificate (Special Conditions) Rules*.

The Working Party liaised and explained to DOJ the scope, nature and duration of the suspension of the certificate of registration of foreign lawyers, the right of appeal against the decision of suspension, the venue of appeal, the time limit to lodge the appeal, the definition of “certificate of registration”, the rationale for introducing a new section 53 (3A) of the *LPO*, the scope of its application, the time frame and the enforcement mechanism as well as related policy issues. The Working Party will continue to liaise with DOJ to clarify its queries on the proposed amendments.