

Panel on Financial Affairs

Follow-up actions arising from the meeting on 5 November 2012

Agenda Item IV – Proposed legislation to facilitate development of an Islamic Bond (sukuk) market in Hong Kong – Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Bill

The Administration is requested to provide the following information:

- (a) potential economic benefits to be brought to Hong Kong by the proposed legislation to provide a comparable taxation framework for Islamic bonds ("sukuk") vis-à-vis conventional bonds;
- (b) possible downside risks that may arise from the proposed legislative amendments apart from tax avoidance concerns;
- (c) handling of sukuk-related disputes, in particular, given that sukuk is based on the principles of Islamic law, in the event of legal disputes relating to sukuk, whether the laws of Hong Kong or Islamic law will prevail;
- (d) tax reforms in other major jurisdictions (such as Malaysia, the United Kingdom, Japan and France) to facilitate issuance of sukuk and to level the playing field between comparable instruments, and the reference made by the Administration to such reforms in drawing up the proposed legislative amendments;
- (e) operation of the "limit on return" condition for qualifying the proposed tax treatment, in particular: (i) concern about impact on the attractiveness of sukuk vis-à-vis conventional bonds if such condition has to be met by sukuk sold in both primary and secondary markets; and (ii) if the first series of a sukuk fulfills, amongst others, the "limit on return" condition for tax relief when it is first issued but exceeds the limit in its subsequent series, whether these subsequent series of the product will be disqualified and recoverable of the tax payable;
- (f) protection for sukuk investors, especially small and retail investors, given the complex nature of the products;

- (g) financial infrastructures already in place/to be put in place to facilitate the development of a sukuk market in Hong Kong, including: (i) the provision and training of market practitioners and professionals on sukuk products, and legal expertise in Islamic law for handling related disputes; and (ii) preparation of relevant officials in the Government and regulatory authorities for in-depth understanding of the Islamic law, finance and culture; and
- (h) details of the 15 responses received during the public consultation conducted by the Administration in March 2012, with information on the background of the respondents (e.g. financial institutions/Muslims/investors), and their major concerns.

Council Business Division 1
Legislative Council Secretariat
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