

11th December 2013

Hon Starry Lee Wai King, JP
Chairman of the Panel on Financial Affairs
Legislative Council

Dear Chairman,

Re: Fund and asset management business development in Hong Kong

I am writing to request the Chairman to follow up on the initiatives announced by the Financial Secretary in his 2013-14 Budget Speech in respect of developing fund and asset management businesses in Hong Kong (the “Announcements”).¹ In particular, the Financial Secretary indicated plans to: (1) establish legal, regulatory and tax regimes to support a new type of investment vehicle, the open-ended investment company (“OEIC”); and (2) extend profits tax exemptions to offshore private equity (“PE”) funds (collectively, the “Issues”). It is understood that progress has been made in respect of the Issues.

As stated in the 2013-14 Budget Speech, “[t]he total value of fund assets under management in Hong Kong is more than \$9 trillion, ranking second in Asia.” To enhance its future as a leading international financial centre, Hong Kong must promote healthy growth in its fund and asset management businesses. This aim can be met by establishing an appropriate legal, regulatory and taxation environment, which requires careful preparation. As reported on 8 April 2013 in the South China Morning Post, Julia Leung Fung-ye, the Undersecretary for Financial Services and the Treasury stated, reforms in respect of the Issues “would involve separate consultations by the end of this year before lawmakers’ approval was sought”. In

¹ 2013-14 Budget Speech (paras. 43-49), accessible at: <http://www.budget.gov.hk/2013/eng/budget07.html>

the same article, the government was reported to be “in talks with mainland authorities on a mutual recognition agreement for the cross-border selling of funds”.²

Since the 2013-14 Budget Speech, the Financial Services and the Treasury Bureau (the "FSTB") have instructed the Financial Services Development Council (the "FSDC") to review the Issues. In November 2013, the FSDC issued research papers that addressed the Announcements, including “Proposals on Legal and Regulatory Framework for Open-ended Investment Companies in Hong Kong”;³ and “Synopsis Paper Proposing Tax Exemptions and Anti-avoidance Measures on Private Equity Funds in the 2013-14 Budget” (collectively, the “Research Papers”).⁴

The Research Papers respectively outline the issues and make recommendations regarding why/how the proposed OEIC regime should operate in Hong Kong and why/how profits tax exemptions should be extended to offshore PE funds. However, they only provide high-level discussions and scant details to substantiate the FSDC recommendations. Whilst the Research Papers represent only the initial views of the FSDC, given the economic importance of progressing the Issues, it would be helpful if the FSTB and/or the FSDC could provide the Panel with the following information:

1. Details about how the recommendations in the Research Papers were made, including the stakeholders with whom the FSDC has consulted in preparing the Research Papers;
2. A plan and a timetable for conducting public consultation on the Issues and for preparing legislative amendment (including any expert research required to inform such consultation and/or preparation);

² E Yiu, “Investment firms bet on future Hong Kong ‘fund factory’” (South China Morning Post, 8 April 2013).

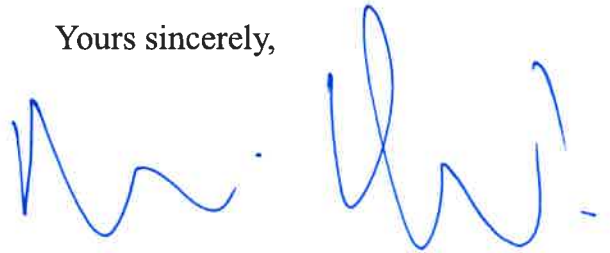
³ FSDC Research Paper No. 05, accessible at: <http://www.fsd.org.hk/sites/default/files/05%28Eng%29-Proposals%20on%20Legal%20%26%20Regulatory%20Framework%20for%20OEIC%20in%20HK.pdf>

⁴ FSDC Research Paper No. 06, accessible at: <http://www.fsd.org.hk/sites/default/files/06%28Eng%29-Synopsis%20paper%20proposing%20tax%20exemptions%20%26%20anti-avoidance%20%28PE%20funds%29.pdf>

3. The key issues for public consultation and the key areas of legislative amendment (e.g. how should the companies law be amended to accommodate for the proposed OEIC regime, and how the proposed profits tax exemptions will impact on the newly established limited liability partnership regime?).

It would be useful for the Panel to understand in detail how the Administration has taken up and will progress the development of the Issues. I therefore urge the Chairman to table the Issues for discussion, and to invite the FSDC and relevant parties to share their views on the Issues before the Panel.

Yours sincerely,

A handwritten signature in blue ink, consisting of two distinct parts. The first part is a stylized, cursive 'D' followed by a wavy line. The second part is a more complex, cursive signature that appears to be 'Kwok'.

Dennis Kwok
Member of the Panel on Financial Affairs