

Panel on Financial Affairs

**Follow-up actions arising from the meeting on
7 April 2014**

Agenda Item V – Proposal for open-ended fund companies: initiatives to develop the asset management industry

At the meeting of the Panel on 7 April, members requested the Administration to provide information on the justifications for extending the existing profits tax exemption for public funds to publicly offered open-ended fund companies (“OFC”).

2. The purpose of introducing a new OFC company structure is to enhance Hong Kong’s legal infrastructure for investment fund vehicles by providing an extra option for fund structure to complement the existing unit trust structure. An OFC, being an open-ended collective investment scheme (“CIS”), would serve as an investment fund to manage investments for the benefit of its shareholders. In terms of operation and investment scope/activities, it is proposed that the asset classes in which an OFC may invest should be broadly in line with those of a traditional investment fund within the remit of the Securities and Futures Ordinance (“SFO”), namely, securities, futures and over-the-counter derivatives as defined under the SFO. Also, an OFC will have the flexibility to vary its share capital in order to meet shareholder applications and redemptions, and may make distributions out of share capital subject to solvency and disclosure requirements.

3. Currently, section 26A(1A)(a)(i) of the Inland Revenue Ordinance provides profits tax exemption for mutual funds, unit trusts or similar investment schemes authorised by the Securities and Futures Commission (“SFC”) under section 104 of the SFO i.e. publicly offered CIS, including mutual funds in corporate form constituted under the relevant laws of overseas jurisdictions. Under the OFC proposal, if an OFC wishes to offer its shares to the public, it would also have to seek SFC’s authorisation under section 104 of the SFO as a publicly offered CIS. As such, we consider that the existing tax exemption regime for publicly offered CIS could be equally applied to publicly offered OFCs authorised under section 104 of the SFO as long as the OFCs could satisfy the prescribed conditions for exemption.

4. The public consultation on the proposed OFCs will last until 19 June. We will carefully analyse comments received.