the hong kong society of financial analysts limited
香港財經分析師學會

3rd September 2005

To : Clerk to Bills Committee
(Attn : Ms. May Leung)

Bills Committee on Revenue (Profits Tax Exemption for Offshore Funds) Bill 2005

We have reviewed the consultation paper on the above captioned subject and have already submitted a response. However, in light of further industry consultation and meeting with government representatives, we would like to reiterate several key points regarding this crucial issue.

1) It is vital for the growing and evolving investment management industry that Hong Kong implement a system whereby offshore funds managed or advised on in Hong Kong are not subject to tax on profits derived from trading in Hong Kong securities. The investment management industry is fiercely competitive, with assets flowing to those funds that are able to generate the highest return, so any situation that hampers Hong Kong based funds from competing in the global market will severely restrict the growth of this crucial industry

2) We are aware that the government understands the point made in 1) above, but it has come to our attention that the current plan would only benefit those investment advisers who were part of a global group, whereby it could be shown that control of the business existed in a jurisdiction outside Hong Kong. Unfortunately, this approach appears to miss the fact that a very important part of Hong Kong's investment management industry is "Home Grown" i.e. founded by local Hong Kong people, with the vast majority of the operations existing within Hong Kong. These firms compete with global firms for investment assets and as such it would be severely detrimental to local firms if they were placed at a disadvantage to overseas firms. We must remember that overseas firms can and do move their operations around the globe at a whim, and Hong Kong people have experienced the backlash of large firms relocating to Singapore or elsewhere in the region. Local firms are based here because the founders are from Hong Kong and they are much less likely to move elsewhere. They are a crucial supplier of stable, high paying jobs. It would be catastrophic in our view if the proposed changes to the tax code are implemented in such a way that home grown firms are put at a disadvantage and that local entrepreneurial activities are not discouraged. Otherwise, Hong Kong's position as a leader in the global financial industry will be seriously crippled.

3) It is important to understand that the financial markets evolve rapidly, and that new financial instruments emerge constantly. Therefore, we feel it would be a mistake to define too narrowly the kind of securities for which profits will be granted tax exempt status. There are already a significant number of derivative and other swap type of products that mainstream investment management firms use on a regular basis that appear to be outside the scope of the proposed tax exempt status. We would urge the government to consider this point either in the wording of the tax law, or in the implementation of the law. We are unable to predict what kind of products will be developed over the next 5 years, but we can say with certainty that there are products in use today that were difficult to foresee five years ago.

We hope these general comments are useful to the government and to the bills committee and look forward to further participation in the process of getting this crucial piece of legislation adopted in a timely manner for the benefit of the financial services industry in Hong Kong

Sincerely,

For and on Behalf of
The Hong Kong Society of Financial Analysts

James Soutar, CFA
Director