

**For information
on 9 April 2013**

**Bills Committee on
Trust Law (Amendment) Bill 2013**

**Supplementary Information arising from
the Meeting on 19 March 2013**

Purpose

This paper provides supplementary information in response to Members' request at the second meeting of the Committee on 19 March 2013.

Abolition of the Rule against Perpetuities (“RAP”)

2. Members sought information on the implication of the proposal to abolish RAP on trusts holding assets in common law jurisdictions where RAP is retained.

3. The proposals to abolish RAP and to allow perpetual trusts seek to attract more settlors to set up trust in, and thereby bring funds to, Hong Kong. For a trust governed by Hong Kong law created after the commencement of the Amendment Bill, the RAP will not apply, regardless of where the trust asset is situated.

4. However, a court of a jurisdiction may not recognize a trust governed by the law of other jurisdictions if its purpose is against the public policy in the jurisdiction of the court. Given that there are different perpetuity periods in different jurisdictions, if the court in a jurisdiction considers that the different perpetuity period of a foreign trust is against the public policy of the jurisdiction of the court, the court may not recognize the trust.

5. The issue detailed in paragraph 4 would unlikely arise for trusts with movable assets as the settlor can move the assets to a jurisdiction of his choice. We therefore believe that the proposed abolition of the RAP will enhance the attractiveness of Hong Kong as a trust domicile.

Advice Sought

6. Members are invited to note the content of this paper.

Financial Services and the Treasury Bureau
2 April 2013