

Speaking note of Mr DATWANI Mohan,
Senior Director and Head of Technical and Research
of The Hong Kong Institute of Chartered Secretaries

Chairman, and everyone present.

An important function of a professional body is to set standards for promoting good practice by its members. For HKICS these standards revolve around good governance which our members as governance professional champion.

As such, in 2008, HKICS had already set its AML/CFT standards for members with the requisite due diligence checklist. This was almost a decade ago.

Then In 2016, following the break of the Panama Paper scandal, HKICS further set out standards for our members engaged within the TCSP sector. The HKICS AML/CFT Guidelines follow financial institution standards, over which FSTB and ND also provided their input.

From this background you would gather HKICS strongly supports the Bills, which includes TCSP regulation, of which HKICS is a forerunner.

If reasons are required for HKICS's support these are that the legislations are necessary for complying with FATF Recommendations 22 and 24, which were brought to the forefront by the Panama Papers scandal, and otherwise to enhance Hong Kong's international reputation in combating financial crimes.

Without derogation to the generality of HKICS's support, turning to matters of details, HKICS has made known to FSTB that in respect of Identification of persons with significant control, this should stop with the identification of a listed company, whether listed in Hong Kong or overseas.

A TCSP cannot be expected to find out who the persons of significant control are over a listed company are, especially as shares could be held

through central clearing, and disclosure regimes differ globally. We believe that this suggestion should not be controversial.

The more complex issue is who could become a TCSP. Aside from lawyers, accountant, and estate agents which would become self regulatory, all other TCSPs would need to be licensed and regulated by the CR if they could satisfy a 'fit and proper test'

The current position is that any person who is 18, not a bankrupt, nor having committed any crimes. In short, an individual who is in good standing is 'fit and proper to be licensed as TCSP'. There are no experience nor qualifications requirements expected to deal with the complex regulations being studied today.

This issue needs to be addressed at the opportune time. If the worry is that people could lose their jobs or livelihood if the 'fit and proper test' was more real, the solution would be to follow the Singapore position. There anyone could after acquiring 3 years' experience during the last 5

years could also apply to be a filing agent, which is similar to a TCSP there.

We have set out the issue under our submission that even FATF has stated that there is the need to consider the professionalism within the TCSP sector. By properly addressing the issue at the opportune time, Hong Kong could only advance its position in the upcoming 2018 FATF Mutual Evaluation.

Thank you,