

Mr Chairman,

Bills Committee on Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 and Companies (Amendment) Bill 2017 - Meeting on Monday, 30 October 2017

1. I am pleased to have the opportunity to give views on the Bills on behalf of the Hong Kong Trustees' Association (HKTA). HKTA encompasses various sectors of the trust industry – corporate trusts, pension schemes, private trusts and charitable trusts.
2. Our association is in support of the legislation's direction (i) to enhance transparency of beneficial ownership of Hong Kong Companies; and (ii) to prescribe statutory customer due diligence (CDD) for trust companies. They are not just something nice-to-have, but a need for Hong Kong to demonstrate that our trusts and company structures are used for proper purposes. To the industry, the proposed legislation is as important as the reform of trust law enacted by the LegCo in 2013 for purposes of strengthening the competitiveness of Hong Kong's trust services industry.
3. We are pleased that FSTB has made considerable efforts to consult the industry (for examples, by way of briefing sessions and meetings) and seek industry's views in respect of matters relating to the Bills. Various concerns raised by the industry (via our submissions and face-to-face discussions) have been dealt with and reflected in the Bills. We will continue to support the Government by giving comments on the draft guidelines issued by the Companies Registry.
4. Before I move on to a couple of specific items in the Bills, the HKTA would like to emphasize that, under the existing AMLO, trust companies have been helping financial institutions on the required due diligence work and that the HKTA did issue Best Practice Guides setting out AML and CDD principles to educate and raise industry standards of its members.
5. As for specific items: 1st, the extended grace period from 90 days to 120 days for existing trust companies to apply for the licence, and the deemed licensing arrangement (whereby existing trust companies will get the licence so long as they send in the application within the 120 days) can facilitate a smooth transition and are appropriate.

6. 2nd, the provision to allow financial institutions to carry out CDD by means of trust & corporate services providers (TCSPs) as specified intermediaries is indeed in line with those applicable under the existing AMLO, and the FATF (Financial Action Task Force) when TCSPs are to be regulated by law.
7. 3rd, as regards the CDD requirements for TCSP's customers who are not physically present i.e. non face-to-face account opening, it will be okay having regard to the money laundering risk (but subject to additional measures for identity verification). Again, this is in line with those applicable under the existing AMLO.
8. 4th, in many jurisdictions, the beneficial owners register is not open to the public. The legislative proposal to limit the inspection by law enforcement agencies for AML/CTF (instead of public access) fulfills the prevailing international standards. It is the same for the change of the threshold from 10% to 25% to determine the beneficial ownership.
9. As stated in the Government's consultation documents earlier this year, the principle of a balanced approach to the legislation should be adopted. The significance of this is to complement the need to have an effective supervisory and enforcement system whilst addressing concerns to minimize regulatory burden and compliance cost on business. I believe, all trustees must agree on.
10. To conclude, it is a must for the passage of the Bills to reinforce Hong Kong as a well regarded international financial centre. HKTA is committed to continuing to work with the government for the smooth implementation of these important amendment bills.

Ms Ka Shi Lau
Vice Chairman, HKTA