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財經事務及庫務局
財經事務科

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本函檔號 OUR REF.: ASST/3/1/10C(2020)Pt. 1
來函檔號 YOUR REF.: LS/B/31/20-21

25 August 2021

Ms Rachel DAI
Assistant Legal Adviser
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Ms Dai,

**Limited Partnership Fund and
Business Registration Legislation (Amendment) Bill 2021**

I refer to your letter of 19 August 2021 seeking clarifications in relation to the captioned Bill (*the Bill*). I am writing to provide information as requested.

Proposed section 82B(3)(c)(iii)

2. The statement referred to in the proposed section 82B(3)(c)(iii) of the Limited Partnership Fund Ordinance (Cap. 637) (**Cap 637**), the contents of which are further elaborated in the proposed section 82B(4) of Cap. 637, is to be contained in the application for registration of a non-Hong Kong fund as a limited partnership fund (**LPF**). The proposed section 82B(2) of Cap. 637 provides that the application must be made by a general partner in the non-Hong Kong fund who is named in the application as the person proposed

to be the general partner in the LPF (*proposed general partner*). Therefore, the statement will be made by the proposed general partner as the applicant.

Proposed section 82B(3)(d)

3. Under the proposed section 82B(3)(d) of Cap. 637, an application for registration of a non-Hong Kong fund as an LPF must be submitted by a Hong Kong firm or a solicitor on behalf of the proposed general partner. In line with the existing section 11(2) of Cap. 637 applicable to LPF set up in Hong Kong, the Bill does not require the relevant Hong Kong firm or solicitor to verify the contents of the application, including the statement referred to in the proposed section 82B(3)(c)(iii) of Cap. 637.

4. Section 95(1) of Cap. 637 (as amended by clause 11 of the Bill) provides that the applicant (i.e. proposed general partner) must ensure the truth of the information contained in the application.

Proposed section 82F(1)

5. Clause 10 of Cap. 637 seeks to add, among others, the new section 82F to Cap. 637 to provide for the circumstances in which the general partner in an LPF must apply for a business registration certificate or notify the Commissioner of Inland Revenue of the registration of the LPF. Under clause 1(2), clause 10 (including the new section 82F to Cap. 637) will come into operation on 1 November 2021.

6. Clause 29 is in Part 3 of the Bill, which contains amendments relating to simultaneous business registration applications of LPFs. Under clause 1(3), Part 3 of the Bill will come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette, which in practice will be a date after 1 November 2021.

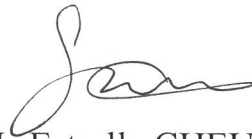
7. Clause 29 seeks to repeal the new section 82F(1) of Cap. 637 because that section will no longer be applicable after the arrangement for simultaneous business registration applications of LPFs is implemented. Section 82F(1) of Cap. 637 will be in existence when clause 29 takes effect and there will not be any difficulty in the operation of the repeal under clause 29.

8. There are previous examples of clauses in Bills seeking to amend or repeal other provisions that are not yet in existence when the Bill is

introduced (but will be in existence when the amendment or repeal takes effect). For instance, Schedule 8 to the Companies Bill (now enacted as the Companies Ordinance (Cap. 622)) and Division 11 of Part 15 of the Financial Institutions (Resolution) Bill (now enacted as the Financial Institutions (Resolution) Ordinance (Cap. 628)) each contains amendments to other provisions in the Bill itself.

9. As for the suggestion of using a “sunset” provision, while an expiry provision is one option to deal with the lapse of a statutory provision, it is considered that the repeal approach in clause 29 (which is contained in Part 3 of the Bill together with other amendments necessary for implementing simultaneous business registration applications of LPFs) is a more direct and tidy approach in this case.

Yours sincerely,



(Ms Estrella CHEUNG)

for Secretary for Financial Services and the Treasury

c.c. Registrar of Companies (Attn: Ms Mandy LAM)
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